2005-2006

Additional Information on the
Budgetary Measures

Budget

Québec

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Additional Information on the Budgetary Measures

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1. MEASURES CONCERNING INDIVIDUALS

1.1 New $500 deduction for workers

Being in the labour market inevitably entails expenses which, aside from a few rare exceptions, are not recognized under the tax system. Among the most common of these are costs incurred to travel from home to work, and additional expenses for meals and clothing.

To make the personal income tax system fairer for taxpayers who, by working, take an active part in the Québec economy, they will be able to claim, as of the 2006 taxation year, a deduction aimed at recognizing that part of their earned income must go toward paying work-related expenses.

❑ Calculation of the deduction for work-related expenses

Individuals[1] will be able to deduct, in the calculation of their income for a given taxation year, an amount equal to 6% of their eligible earned income for the year, up to $500.

In this regard, an individual's eligible earned income for a given taxation year will correspond to the aggregate of the following amounts:

— the salaries, wages and other remunerations, including gratuities,[2] taken into account in the calculation of the individual's income for the year from an office or employment, other than an office or employment held as a member of a municipal or school body[3] or as a member of the National Assembly, of the House of Commons, of the Senate or the Legislature of another province;[4]

— the amount by which the individual's income for the year from businesses carried on alone or as a partner actively engaged in the businesses exceeds the individual's losses for the year from the businesses;

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[1] Other than a trust.

[2] This term includes both tips attributed and tips reported to the employer.

[3] Namely, an elected member of a municipal council, a member of the council or executive committee of an urban community, regional county municipality or other similar body established under an act of the Parliament of Québec, a member of a municipal utilities commission or corporation or any other similar body administering such a service or a member of a public or separate school board or any other similar body administering a school district.

[4] To take into account the fact that the new deduction is for both employees and self-employed workers, the special rules introduced further to the elimination of the employment deduction in 1993 will be withdrawn.

- any amount included in the calculation of the individual's income for the year as earnings supplements received under a project sponsored by a government or government agency in Canada, and aimed at encouraging an individual to find or keep a job or to carry on a business alone or as a partner actively engaged in the business;
- any amount included in the calculation of the individual's income for the year as a grant awarded to undertake research or similar work.

However, Indians or persons of Indian ancestry will not be able to include income situated on a reserve or premises in the calculation of their eligible earned income.

1.2 Improvement of the tax assistance for persons with a mental or physical impairment

Persons with a mental or physical impairment must, because of their condition, incur medical expenses or current expenditures that other people do not have to defray, thereby reducing their ability to pay income tax.

The personal income tax system includes certain measures designed to take into account this reduced ability to pay tax. These measures include the impairment supports deduction, the refundable and non-refundable tax credits for medical expenses, and, in the case of severe and prolonged impairment, the tax credit respecting a severe and prolonged mental or physical impairment.

The impairment supports deduction was introduced to enable individuals to deduct, in the calculation of their income, expenses paid to obtain certain products and services to support them in earning income or pursuing their studies. Medical and paramedical expenses that are not incurred for such purposes may give entitlement to the non-refundable tax credit for medical expenses, which provides tax relief respecting above-average expenses.[5] The refundable tax credit for medical expenses grants low-income workers additional tax relief regarding expenses taken into consideration for the purposes of both the impairment supports deduction and the non-refundable tax credit for medical expenses.

The tax credit respecting a severe and prolonged mental or physical impairment, which may be claimed by persons with such an impairment, is complementary to the previous three measures in that it provides tax relief for non-discretionary expenses related to an impairment, which are hard to assess.

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[5] Only eligible expenses that exceed 3% of a taxpayer's family income may give entitlement to the tax credit.

It provides tax relief to persons with a severe and prolonged mental or physical impairment whose ability to carry out a basic activity of daily living is significantly restricted by their impairment. Such persons may claim the tax credit if a recognized health professional attests that they have such an impairment.

❑ Harmonization with the federal legislation

As part of the federal Budget Speech of February 23, 2005, the federal Minister of Finance proposed various changes to the disability supports deduction and the tax credit for severe and prolonged mental or physical impairment further to the tabling, in December 2004, of the final report of the Technical Advisory Committee on Tax Measures for Persons with Disabilities.[6]

In this regard, Québec's tax legislation will be amended to incorporate some of the measures announced. However, these measures will be adopted only after the approval of any federal law arising from the announcement, taking into account technical amendments that might be made prior to the approval of the law, and will be effective on the same dates as for federal income tax purposes.

More specifically, Québec's tax legislation will be amended to incorporate, with adaptations based on its general principles, the measure aimed at lengthening the list of products and services recognized for the purposes of the impairment supports deduction, as well as the measures concerning the tax credit for severe and prolonged mental or physical impairment that relate to:

- the replacement of the wording "severe and prolonged mental or physical impairment" with the wording "severe and prolonged impairment in physical or mental functions";
- the replacement of the basic activity of daily living pertaining to "perceiving, thinking and remembering" with an activity referring to "mental functions necessary for everyday life";
- the eligibility of persons with severe and prolonged impairment in physical or mental functions who are significantly restricted in more than one basic activity of daily living, if the cumulative effects of the restriction are equivalent to a marked restriction in a single basic activity of daily living;
- the exclusive power of medical doctors to certify eligibility in regard to the cumulative effects of multiple restrictions, unless the restrictions pertain only to walking, feeding or dressing, in which case occupational therapists will also be authorized to do so;

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[6] *Disability Tax Fairness: Report of the Technical Advisory Committee on Tax Measures for Persons with Disabilities*, 2004.

— the possibility for physiotherapists to certify a marked restriction in walking.

However, the federal measure aimed at better defining the activities that can be included as time spent receiving life-sustaining therapy will not be retained, as the Québec tax system already takes into account the time spent receiving, due to chronic illness, therapy prescribed by a physician that is essential to sustaining a vital function.

❑ Indexation of the amount used to calculate the tax credit

Currently, persons with a severe and prolonged mental or physical impairment that considerably restricts their ability to carry out a basic activity of daily living are entitled to a non-refundable tax credit of $440, that is, $2 200 multiplied by a 20% conversion rate.

For the 2006 taxation year, the amount used to calculate the tax credit respecting a severe and prolonged mental or physical impairment will be raised from $2 200 to $2 250, thereby increasing the maximum tax credit from $440 to $450.

As of the 2007 taxation year, the amount used to calculate the tax credit, like the main parameters of the personal income tax system, will be automatically indexed.[7]

1.3 Enhancement of the tax assistance for natural caregivers

The personal income tax system provides for measures designed to assist parents with a handicapped child by recognizing that they may have to incur non-discretionary expenses due to their child's handicap.

The system also provides for different measures intended to recognize the social gesture made by individuals who live with an elderly parent or a family member with a disability, or that take into account the fact that these individuals may be required to incur certain expenses relative to the disability of the person living with them.

Given that the measures for natural caregivers of minor children and for natural caregivers of adults, which may be in the form of refundable or non-refundable tax credits, are all intended to recognize the important role these people play with their relatives and the resulting economic contribution, the measures will be grouped to make them more accessible to more people and simplify their application.

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[7] For greater clarity, where the indexation amount is not a multiple of 5, it must be adjusted to the nearest multiple of 5 or, if it is equidistant from two multiples of 5, to the nearest higher multiple of 5.

1.3.1 Increase of the supplement for handicapped children

Introduced in 2005, the refundable child assistance tax credit is an important element of Québec's family policy. One of the components of the tax credit—the supplement for handicapped children—is granted to all persons who are primarily responsible for the care and education of a handicapped child with whom they ordinarily live.

This assistance, which is universal and not taxable, is $121 a month and indexed automatically for each handicapped child under 18. For 2005, assistance of $1 452 will be paid for each child.

A child may give entitlement to the supplement for handicapped children if the child has an impairment or a development disorder that considerably restricts his or her everyday activities and that is expected to last at least one year, in accordance with the rules currently established by the *Regulation respecting the allowance for handicapped children*.

Individuals with a handicapped child may also, subject to certain conditions, claim a non-refundable tax credit equal to the unused portion of the tax credit respecting a severe and prolonged mental or physical impairment to which their child is entitled if the child is under 18 and has such an impairment. The maximum amount of this tax credit, hereinafter called the "tax credit respecting a dependent child with an impairment," which is currently $440, was to be raised to $450[8] for the 2006 taxation year.

Individuals may be entitled to the tax credit for a given taxation year only if their child lived in Canada during the year and they deducted in respect of the child, in the calculation of their income tax otherwise payable for the year, an amount as a tax credit for a child in vocational training or post-secondary studies (or they could have deducted such an amount were it not for the child's income), or they or their eligible spouse received an amount as a refundable child assistance tax credit for the year in respect of the child.

To standardize the tax assistance available regarding children under 18 with a serious handicap and facilitate accessibility to the assistance, the tax credit respecting a dependent child with an impairment will be replaced, as of the 2006 taxation year, by an improved supplement for handicapped children.

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[8] For the 2006 taxation year, the amount of $2 200 used to calculate the non-refundable tax credit respecting a severe and prolonged mental or physical impairment will be raised to $2 250, which represents, at a 20% conversion rate, a tax credit of $450. This measure is described in subsection 1.2.

More specifically, the supplement for handicapped children will be raised by $37.50 a month, which represents an increase of $450 for the 2006 taxation year, that is, an increase equivalent to the maximum amount that could have been claimed, for that year, as a tax credit respecting a dependent child with an impairment.

It follows that all parents who are entitled to the supplement for handicapped children will be entitled to this increase even if they have no income tax payable.

Moreover, to take into account the fact that a handicapped child who turns 18 in a taxation year subsequent to 2005 will give entitlement to the increased supplement for handicapped children for the months prior to turning 18 in that year, the amount used to calculate the tax credit for a severe and prolonged mental or physical impairment to which the child may be entitled for the year will be reduced by an amount equal to the proportion of that amount represented by, in relation to 12, the number of months in the year during which the child is under 18.

1.3.2 Introduction of a refundable tax credit for natural caregivers of adults

Currently, the tax system provides for two non-refundable tax credits for natural caregivers of relatives who are at least 18 years of age, namely, the tax credit for a dependant with an infirmity and the tax credit regarding the transfer of the unused portion of the tax credit for severe and prolonged mental or physical impairment to which such relatives may be entitled if they have such an impairment. The tax system also provides for the refundable tax credit for an individual housing a parent, when the adult being housed is an ascendant who is at least 70 years of age or, if the adult has a severe and prolonged impairment, an ascendant who is at least 60 years of age.

The non-refundable tax credit for a dependant with an infirmity is intended for the natural caregiver of an adult, other than a spouse, to whom the caregiver is related by blood, marriage or adoption, provided that the person lives with the natural caregiver and is a dependant because of a mental or physical infirmity. The latter condition implies that the dependency on the natural caregiver is attributable solely to the infirmity.

For the 2005 taxation year, an amount of $3 780 granted for recognized essential needs less the income of the dependant, in excess of $2 585, must be used for the purposes of calculating this tax credit,[9] which is obtained by applying a rate of 20% to the amount thus reduced.

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[9] For 2005, the tax legislation stipulates that a non-refundable tax credit, calculated on the basis of an amount of $2 585 for recognized essential needs, shall be granted to an individual with a dependant aged 18 or over, other than the individual's spouse, who lives with the individual and is related to him or her by blood, marriage or adoption. However, when the person is a dependant of the individual because of a mental or physical infirmity, the amount of recognized essential needs shall be increased by $3 780, to $6 365.

Considering the parameters used, this tax credit is almost inaccessible to natural caregivers of adults with an infirmity, because the latter are sure to receive an income of over $6 365[10] owing to the social safety net granted to them by government social solidarity programs or old age security.

However, subject to certain conditions, a natural caregiver can claim a non-refundable tax credit equal to the unused portion of the tax credit for severe and prolonged mental or physical impairment to which the person being housed is entitled if the person has such an impairment. The maximum amount of the tax credit, which is currently $440, was to be raised, for the 2006 taxation year, to $450.[11]

This tax credit is granted to natural caregivers, for a given taxation year, only if the person housed resides in Canada during the year and is a person for whom the caregivers have deducted, in calculating their income tax otherwise payable for the year, an amount under a tax credit for dependants,[12] or for whom they could have deducted such an amount had it not been for the person's income.

Lastly, when the person housed is an ascendant at least 60 years of age with a severe and prolonged mental or physical impairment or an ascendant at least 70 years of age, natural caregivers can claim an amount of $550 under the refundable tax credit for an individual housing a parent.

Currently, only the father, mother, grandfather, grandmother or another direct ascendant, or the uncle, aunt, great-uncle or great-aunt, of a taxpayer or the taxpayer's spouse are considered eligible ascendants for the purposes of this tax credit.

For a natural caregiver to be able to claim this tax credit with regard to an ascendant, the latter must have lived with the caregiver for a minimum of 365 consecutive days, including at least 183 days in the year for which the tax credit is being claimed. However, more flexible housing conditions are provided for in the case of an ascendant with a severe and prolonged mental or physical impairment who lives with more than one person for whom the ascendant is an eligible ascendant.[13]

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[10] Ibid.

[11] *Supra*, Note 8.

[12] Namely, a tax credit for a child engaged in vocational training or postsecondary studies, a tax credit for an adult child who is a student, a tax credit for other dependants or a tax credit for a dependant with an infirmity.

[13] In such cases, the natural caregiver may claim the tax credit with regard to an eligible ascendant if the ascendant lived with the caregiver for a period of at least 90 consecutive days during the year for which the tax credit is being claimed, and if the ascendant lived with the caregiver or any other person for whom the ascendant is an eligible ascendant for a period of at least 365 consecutive days, beginning in the year or in the preceding year, including at least 183 days in the year for which the tax credit is being claimed.

To better recognize the role played by extended families in supporting persons with a severe and prolonged impairment or aging persons, the various measures for natural caregivers of adults will be replaced, as of the 2006 taxation year, by a refundable tax credit for natural caregivers of up $1 000 for each person housed.

❑ Individuals eligible for the new refundable tax credit for natural caregivers of adults

Individuals who reside in Québec at the end of a given year,[14] or on the date of their death if they die during the year, can claim, for such year, a refundable tax credit of up to $1 000 for each person who, throughout the minimum housing period applicable for the year, is an eligible relative with whom they ordinarily lived, throughout the period, in a self-contained domestic establishment which they maintained alone or jointly and of which they or their spouse was the owner, tenant or subtenant.

However, individuals cannot claim this tax credit for a given taxation year if they are an individual for whom a person, other than their spouse, deducted, in calculating their income tax otherwise payable for the year, an amount under a tax credit respecting dependants,[15] the non-refundable tax credit for medical expenses, the non-refundable tax credit for expenses relating to medical care not available in the area of residence or the non-refundable tax credit for moving expenses relating to medical care.

Similarly, individuals cannot claim this tax credit, for a given taxation year, for an eligible relative if they, or the person who is their spouse during the minimum housing period applicable to the eligible relative for the year, are exempt from income tax for the year.

❑ Amount of the tax credit

The new tax credit will consist of, for each eligible relative housed, a universal basic amount of $550, plus a supplement of $450 that will be reduced on the basis of the eligible relative's income for the year for which the tax credit is being claimed.

The reduction rate will be 16% for every dollar of income of the eligible relative in excess of a threshold of $20 000.

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[14] More specifically, at the end of December 31 of the given year.

[15] *Supra*, Note 12.

Like the main parameters of the personal income tax system, the various parameters of the refundable tax credit for natural caregivers, except for the reduction rate, will be indexed automatically as of the 2007 taxation year.[16]

In addition, given that the recognized essential needs of persons under 18 are covered by the refundable child assistance tax credit, the amount of the refundable tax credit for natural caregivers determined for an eligible relative who turns 18 in the course of a year will be reduced by an amount equal to the proportion of this amount that represents the number of months, out of 12, during the year in which the eligible relative was under 18.

In addition, to take into account the fact that the basic benefit for a family receiving last-resort financial assistance is adjusted upward when a handicapped adult child pursues a general program of study at a secondary-level educational institution, the amount of the refundable tax credit for natural caregivers that is claimed for such a person for a given year must be reduced by any amount received in regard to this adjustment for the year.

❑ Eligible relatives

For the purposes of the refundable tax credit for natural caregivers, a person will be considered an eligible relative of a natural caregiver for a minimum housing period applicable for a year if, throughout the period, the person resides in Canada and satisfies the following conditions:

- the person is the child, grandchild, nephew, niece, brother, sister, father, mother, uncle, aunt, grandfather, grandmother, great-uncle, great-aunt or another direct ascendant of the natural caregiver or the natural caregiver's spouse;
- the person has a severe and prolonged mental or physical impairment,[17] unless the person is 70 or over or would have turned 70 had the person not died before the end of the year for which the period applies, and is the father, mother, grandfather, grandmother, or another direct ascendant of the natural caregiver or the natural caregiver's spouse, or the uncle, aunt, great-uncle or great-aunt, of the natural caregiver or the natural caregiver's spouse.

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[16] For greater clarity, if the amount resulting from the indexation of the universal basic amount of $550 or of the maximum amount of $450 granted as a supplement is not a multiple of 1, it will have to be adjusted to the nearest multiple of 1 or, if it is equidistant from two multiples of 1, to the nearest higher multiple of 1. As for the amount resulting from the indexation of the reduction threshold of $20 000, it will be rounded off to the nearest multiple of 5 or, if it is equidistant from two multiples of 5, to the nearest higher multiple of 5.

[17] Within the meaning of this expression for the purposes of the tax credit for severe and prolonged mental or physical impairment.

For greater clarity, despite the death of an individual who was the spouse of a natural caregiver, the individual will be deemed a spouse of the natural caregiver for the purposes of determining whether a person is an eligible relative of the natural caregiver.[18]

The following table makes it possible to compare the tax assistance that may be granted, as of the 2006 taxation year, to natural caregivers of adults after this Budget Speech, with the tax assistance they are currently granted.[19]

TABLE 1.1

TAX ASSISTANCE GRANTED TO NATURAL CAREGIVERS OF ADULTS
(in dollars)

	Current assistance		New assistance	
	Transfer of the non-refundable tax credit for impairment[1]	Refundable tax credit for an individual housing a parent	Refundable tax credit for natural caregivers of adults	
Eligible relatives by age group and state of health	Maximum amount	Amount	Minimum amount	Maximum amount
Age 18 to 59 (with an impairment)				
Child/grandchild/nephew/niece	440	n.a.	550	1 000
Brother/sister	440	n.a.	550	1 000
Father/mother/grandparent/other ascendant[2]	440	n.a.	550	1 000
Uncle/aunt/great-uncle/great-aunt	440	n.a.	550	1 000
Age 60 or more (with an impairment)				
Child/grandchild[3]/nephew/niece	440	n.a.	550	1 000
Brother/sister	440	n.a.	550	1 000
Father/mother/grandparent/other ascendant	440	550	550	1 000
Uncle/aunt/great-uncle/great-aunt	440	550	550	1 000
Aged 70 or more (without an impairment)				
Father/mother/grandparent/other ascendant	n.a.	550	550	1 000
Uncle/aunt/great-uncle/great-aunt	n.a.	550	550	1 000

1 The transfer of the non-refundable tax credit for impairment allows natural caregivers to reduce their income tax payable by an amount equal to the portion of the tax credit for severe and prolonged mental or physical impairment (i.e. 20% of $2 200) that was not used by the person housed. As a result, a natural caregiver cannot benefit from such a transfer if the caregiver does not have to pay any income tax.

2 It is not very likely that the situation will arise where a natural caregiver houses an ascendant under 60 with an impairment who is not the caregiver's father, mother or one of the caregiver's grandparents (a great-grandfather, for example).

3 It is not very likely that the situation will arise where a natural caregiver houses a grandchild aged 60 or more with an impairment.

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[18] For example, the mother of the spouse of a natural caregiver will be able to continue to qualify as an eligible relative of the natural caregiver following the death of the caregiver's spouse.

[19] The table does not show the tax assistance granted by the non-refundable tax credit for a dependant with an infirmity since this tax credit is almost inaccessible to natural caregivers.

❑ Minimum housing period

The minimum housing period of an eligible relative with a natural caregiver for a given taxation year corresponds to:

- if the eligible relative turned 70 before the end of the year or would have turned 70 before that time had the relative not died during the year, a period of at least 365 consecutive days, beginning in the year or in the preceding year, including at least 183 days in the year;
- if the eligible relative has a severe and prolonged mental or physical impairment, a period of at least 90 consecutive days during which the eligible relative is at least 18 years of age provided that the period is included in the year and in a period, beginning in the year or in the preceding year, of at least 365 consecutive days, including at least 183 days in the year, and provided that throughout the entire period of 365 consecutive days, the eligible relative ordinarily lived with the natural caregiver or another person for whom the relative is an eligible relative, in a self-contained domestic establishment and that, throughout the period the relative lived in such establishment:
  - the establishment was maintained by the natural caregiver or the other person, as the case may be;
  - the natural caregiver or the caregiver's spouse, or the other person or the other person's spouse, as the case may be, was the owner, tenant or subtenant of the establishment.

❑ Other application details

In cases where more than one natural caregiver can claim, for a given taxation year, the refundable tax credit for natural caregivers in regard to an eligible relative, the total of the amounts indicated by each of the caregivers on their income tax return must not exceed the amount that would be granted if only one of them were entitled to the tax credit for the year. Failing an agreement between the natural caregivers, the Minister of Revenue will determine the amount each of them may claim.

1.3.3 Easing of the tax credit for a child engaged in vocational training or postsecondary studies

The tax system provides for a non-refundable tax credit for individuals with one or more dependent children pursuing studies in vocational training or studies at the postsecondary level. This tax credit is calculated on the basis of several amounts granted to cover the recognized essential needs of each child, from which the income of each child must be subtracted. The amount of the tax credit is obtained by applying a rate of 20% to the total of the amounts thus calculated for each child.

For the purposes of calculating this tax credit, an amount of \$1 780[20] is granted per term completed for recognized essential needs, subject to a maximum of two terms per year. This amount is intended to recognize that the financial needs of a child pursuing studies are essentially the same as those of an adult.

To give entitlement to this amount, the child must pursue studies on a full-time basis. Moreover, the child must pursue such studies in an educational institution which has been designated by the Minister of Education, Recreation and Sports for the purposes of the loans and bursaries program for full-time studies in vocational training at the secondary level and for full-time studies at the postsecondary level provided for in the *Act respecting financial assistance for educational expenses*, hereinafter referred to as the "loans and bursaries program for full-time studies."

In addition, the child must be enrolled in a recognized program of study under which the student must devote at least nine hours a week to courses or work required by this program.

The conditions governing the allocation of this amount are thus connected, by and large, to the loans and bursaries program for full-time studies.

However, for the purposes of this program, the *Act respecting financial assistance for educational expenses* stipulates that students who have a major functional deficiency within the meaning of the regulation enacted under this Act are deemed to pursue studies recognized by the Minister of Education, Recreation and Sports on a full-time basis if they pursue such studies on a part-time basis because of this deficiency.

In this regard, students who do not rank as full-time students depending on the educational institution they attend are deemed to pursue studies on a part-time basis if they receive at least 20 hours of instruction per month.

For greater consistency between the amount granted for terms completed by a child pursuing studies in vocational training or studies at the postsecondary level and the loans and bursaries program for full-time studies to which the conditions for allocating this amount refer, such conditions will be eased slightly, as of the 2005 taxation year, in favour of parents who have children with a deficiency.

More specifically, the tax legislation will be amended to stipulate that when a child has a major functional deficiency within the meaning of the *Regulation respecting financial assistance for educational expenses*, and the child pursues studies, in a given taxation year, on a part-time basis because of this deficiency, the child will be deemed, for the purposes of allocating the amount granted for terms completed by a child pursuing studies in vocational training or studies at the postsecondary level, to be pursuing such studies on a full-time basis in the given taxation year.

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[20] This amount is subject to automatic indexation.

In such cases, the requirement that the child must be enrolled in a recognized program of study under which the student must devote at least nine hours a week to courses or work required by this program, will be replaced by the requirement that the child must be enrolled in a recognized program of study under which the student must receive at least 20 hours of instruction per month.

1.4 Changes to the tax credits for medical expenses

Taxpayers who pay eligible medical expenses for themselves, their spouse or their dependants are entitled to a non-refundable tax credit.

The tax credit is equal to 20% of the portion of eligible medical expenses that exceeds 3% of a taxpayer's family income, that is, the net income of the taxpayer and the taxpayer's eligible spouse.

The non-refundable tax credit for medical expenses is intended to recognize that the medical expenses paid by taxpayers over and above their personal contribution reduces their ability to pay income tax.

Low-income workers can obtain additional tax assistance under the refundable tax credit for medical expenses.

1.4.1 Medical expenses eligible for the non-refundable tax credit

Changes are made regularly to the list of expenses giving entitlement to the non-refundable tax credit for medical expenses to take into account technological breakthroughs and certain developments relative to the situation of persons with disabilities or the medical field.

A recent review of the list showed that there were few expenses of doubtful relevance. However, the review also showed that the list contained certain expenses that are more a question of personal choice than of health, these expenses being subject to considerable variation depending on disposable household income.

☐ Additions to the list of eligible medical expenses

Amounts paid for hyperbaric oxygen therapy[21] may be considered eligible medical expenses if a competent person, generally a physician, attests that the individual undergoing the therapy needs it because of a physical or mental disability.

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[21] Hyperbaric oxygen therapy consists essentially in a person's inhaling oxygen in a chamber in which the pressure is increased to above atmospheric pressure.

Currently, people with a disability for which the effectiveness of hyperbaric oxygen therapy has not been scientifically established cannot obtain an attestation that they need the therapy, even though they may be severely disabled. Persons with severe neurological disorders, in particular, can find themselves in such a situation.[22]

The tax legislation will be amended so that amounts paid after the day of this Budget Speech for hyperbaric oxygen therapy provided to an individual with a severe and prolonged neurological disorder are expenses eligible for the tax credit for medical expenses, where a competent person attests that the individual has a severe and prolonged mental or physical impairment for the purposes of the application of the non-refundable tax credit respecting a severe and prolonged mental or physical impairment.

Moreover, as part of the federal Budget Speech of February 23, 2005, the federal Minister of Finance proposed that, for 2005 and subsequent taxation years, certain expenses be added to the list of expenses giving entitlement to the non-refundable medical expense tax credit.[23]

The additions include expenses newly recognized for the purposes of the impairment supports deduction, where the expenses can be incurred for reasons other than earning income or pursuing studies, along with drugs and medical devices obtained under Health Canada's Special Access Programme.

In this regard, Québec's tax legislation and regulations will be amended to incorporate the federal measures concerning the proposed additions to the list of eligible medical expenses. However, the measures will be adopted only after the approval of any federal law or the adoption of any federal regulation giving effect to them, taking into account technical amendments that might be made prior to the approval of the law or the adoption of the regulation. These measures will be effective on the same dates as for federal income tax purposes.

❑ Tightening of the list of eligible medical expenses

• Expenses paid for a service provided for purely cosmetic purposes

Currently, amounts paid to a practitioner, dentist or hospital for medical, paramedical or dental services provided for purely cosmetic purposes[24] may be eligible for the non-refundable tax credit for medical expenses.

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[22] For example, certain cases of cerebral palsy.

[23] Budget Resolution 11 of the Notice of Ways and Means Motion to Amend the *Income Tax Act* tabled in the House of Commons on February 23, 2005, which is rounded out by the regulatory amendments proposed on page 379 of *The Budget Plan 2005* of the Department of Finance Canada.

[24] Essentially, an operation or treatment that is not medically necessary.

Given that such services are definitely not obtained for medical reasons, the tax legislation will be amended to provide that expenses incurred after the day of this Budget Speech to obtain medical, paramedical or dental services for purely cosmetic purposes will no longer be considered eligible expenses for the purposes of the non-refundable tax credit for medical expenses.

Accordingly, purely cosmetic services such as liposuction, facelifts, botox injections and teeth whitening will no longer give entitlement to tax assistance.

Consequently, the tax legislation will be amended to provide that transportation, travel or accommodation expenses paid after the day of this Budget Speech to obtain services for purely cosmetic purposes will no longer be eligible for the purposes of the non-refundable tax credit for medical expenses or the non-refundable tax credit for expenses paid to obtain medical care not available in the area of residence.

• Expenses paid for glasses

Under the existing rules, expenses paid for glasses or other devices prescribed by a practitioner or optometrist for the treatment or correction of a defect of vision constitute eligible medical expenses.

Given that the price paid for frames can vary considerably depending on disposable household income, the tax legislation will be amended to provide that the portion of all expenses incurred for glasses frames, by a taxpayer[25] or the taxpayer's spouse after the day of this Budget Speech, will be limited to $200 per person.

For greater clarity, the cap on glasses frames will apply separately to each person for whom a taxpayer or the taxpayer's spouse acquired glasses during the period taken into account in the calculation of the tax credit.[26]

• Expenses paid for renovations or alterations to a dwelling

As part of the federal Budget Speech of February 23, 2005, the federal Minister of Finance proposed tightening measures concerning expenses incurred after February 22, 2005 for renovations or alterations to the dwelling of a person who lacks normal physical development or has a severe and prolonged mobility impairment, to enable the person to gain access to the dwelling or be mobile or functional within it. The measures are intended to ensure that the expenses:

— are not the types of expenses typically incurred by people who have normal physical development or who do not have a severe and prolonged mobility impairment; and

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[25] Including the taxpayer's legal representative.

[26] Generally, the 12-month period ending in the year for which the tax credit is claimed.

— are not the types of expenses typically expected to increase the value of the dwelling.[27]

Similarly, the Minister proposed that expenses incurred after February 22, 2005 for a device designed for individuals with a mobility impairment to assist them in walking be limited to expenses incurred for devices designed exclusively for that purpose.[28]

Considering that expenses incurred for renovations or alterations to a dwelling or for devices designed to assist people in walking are also medical expenses for the purposes of the Québec tax system, the tax legislation and regulations will be amended to incorporate the federal measures aimed at tightening such expenses.

However, these measures will be adopted only after the approval of any federal law or the adoption of any federal regulation giving effect to them, taking into account technical amendments that might be made prior to the approval of the law or the adoption of the regulation. These measures will be effective on the same dates as for federal income tax purposes.

❑ Clarifications respecting certain eligible medical expenses

• Premiums paid to a private health services plan

Premiums paid by individuals to a private health services plan, as well as any amount included in the calculation of their income from an office or employment because of their employer's participation in such a plan, are eligible expenses for the purposes of the non-refundable tax credit for medical expenses.

Essentially, a private health services plan is an insurance contract or plan covering medical expenses, hospital expenses, or a combination thereof, that are eligible for the non-refundable tax credit for medical expenses.

However, a number of health services plans on the market cover, incidentally, expenses that are not eligible for the non-refundable tax credit for medical expenses even though they are generally incurred relative to the insured's health. Amounts paid for certain domestic services during a person's convalescence are an example of such expenses.

To ensure such plans are recognized as private health services plans, the tax legislation will be amended to provide that, as of the 2005 taxation year, plans that afford moderate coverage of expenses not giving entitlement to the non-refundable tax credit for medical expenses can qualify as private health services plans if their main purpose is to cover eligible expenses.

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[27] Budget Resolution 12 of the Notice of Ways and Means Motion to Amend the *Income Tax Act* tabled in the House of Commons on February 23, 2005.

[28] Department of Finance Canada, *The Budget Plan 2005*, p. 388.

More specifically, a change will be made to the definition of the term "private health services plan" so that it designates a contract of insurance in respect of medical expenses, hospital expenses or any combination of such expenses, or a medical care insurance plan or hospital care insurance plan or both a medical care and hospital care insurance plan, where the contract or plan essentially covers expenses eligible for the non-refundable tax credit for medical expenses and substantially all of the premium or other consideration payable for coverage under the contract or plan is attributable to such expenses.

For greater clarity, such a contract or plan established or provided for under a provincial statute establishing a health care insurance plan that is a health care insurance plan within the meaning of the *Canada Health Act* will not be considered a private health services plan.

- **Services provided by a recognized practitioner**

Currently, expenses paid to a practitioner for medical, paramedical or dental services constitute eligible medical expenses. To that end, a practitioner is a person practising a profession recognized by the Minister of Revenue, where the person is authorized to practise the profession in accordance with the laws of the jurisdiction in which the person provides the services.

Among the practitioners recognized by the Minister of Revenue are professionals, such as homeopaths, naturopaths and osteopaths, who do not have to be authorized by law to practise their profession in Québec.

Thus, in practice, expenses paid by individuals for paramedical services provided by such professionals in Québec give entitlement to the non-refundable tax credit for medical expenses despite the requirement that practitioners must be authorized to practise their profession under the laws of the jurisdiction where they provide services.

To take into account Revenu Québec's administrative practice and the growing influence of certain alternative medicine professions, the notion of "practitioner" will be clarified.

More specifically, as of the 2005 taxation year, the tax legislation will be amended so that the notion of "practitioner" refers to a person who:

— carries on a profession in which health-related care and treatment are provided to individuals, unless the person practises a profession in which only certain services are eligible, in which case a person who practises that profession in respect of the eligible services, where, in both cases, the person is authorized to carry on the profession:

  – under the legislation applicable in the jurisdiction where the person provides the services, if services are involved;

  - under the legislation applicable in the jurisdiction where a particular individual lives, or under the applicable provincial legislation, if the person must issue an attestation concerning the individual;

  - under the legislation applicable in the jurisdiction where a particular individual lives, under the applicable provincial legislation or under the legislation applicable in the jurisdiction where goods are provided, if the person must issue a prescription for goods to be provided to, or to be used by, the individual;

- or carries on a profession recognized in regard to an eligible service, as the case may be, where the profession practised by the person is not governed by the legislation applicable in the jurisdiction where the person provides the services.

For the purposes of this measure, the following professions, when governed by the legislation applicable in the jurisdiction where the services are provided, will be considered professions in which only certain services are eligible:

- the profession of psychologist, in regard to therapy and rehabilitation services;

- the profession of social worker, in regard to psychotherapy and rehabilitation services for accident victims and people suffering from illness or a handicap;

- the profession of guidance counsellor or psychoeducator, in regard to psychotherapy services, where the person carrying on the profession is a psychotherapist duly certified by the Ordre des conseillers et conseillères d'orientation et des psychoéducateurs et psychoéducatrices du Québec;

- the profession of marital and family therapist, in regard to therapy services.

It follows that people who carry on, in particular, the professions of acupuncturist, audiologist, chiropractor, dental hygienist, dentist, dietician, midwife, nurse, occupational therapist, optometrist, physician, physiotherapist, podiatrist, respiratory therapist or speech therapist will also be considered practitioners in regard to services they provide in Québec, as these professions are governed by Québec legislation and are not professions in which only certain services are eligible.

The following professions will be considered recognized professions in regard to an eligible service, as the case may be, where they are not governed by the legislation applicable in the jurisdiction where the service is provided:

— the profession of homeopath, naturopath, osteopath and phytotherapist;

— the profession of psychoanalyst, in regard to therapy services;

— the profession of psychotherapist, in regard to therapy and rehabilitation services;

— the profession of sexologist, in regard to therapy services.

1.4.2 Improvement to the refundable tax credit for medical expenses

The refundable tax credit for medical expenses is a measure aimed essentially at encouraging people with disabilities to enter the job market. For a large number of such people, entry into the job market presupposes the loss of the special benefits they receive under the last-resort assistance program to cover the special needs related to their state of health.

Given the objective of the tax credit, it is available only to taxpayers with at least $2 500 in earned income.[29] For the 2005 taxation year, the tax credit corresponds to the aggregate of 25% of the portion of expenses giving entitlement to the non-refundable tax credit for medical expenses and 25% of the amount deducted as expenses for impairment support products and services, up to $543. However, this maximum amount is reducible at the rate of 5% for each dollar of a taxpayer's family income that exceeds $18 865.

To increase the tax assistance available through the tax credit and make the credit available to more low-income workers, the maximum amount of $543 will be raised 38%, to $750, as of the 2005 taxation year. As of the 2006 taxation year, the $750 limit will continue to be automatically indexed.

To take the cost-of-living increase into account in the minimum amount of earned income required for the purposes of the refundable tax credit for medical expenses, the minimum amount, like the main parameters of the personal income tax system, will be indexed automatically as of the 2006 taxation year.[30]

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[29] Essentially, income from an office or employment and income from a business carried on alone or as a partner actively engaged in the business.

[30] For greater clarity, where the indexation amount is not a multiple of 5, it must be adjusted to the nearest multiple of 5 or, if it is equidistant from two multiples of 5, to the nearest higher multiple of 5.

1.5 Application of the tax system to the parental insurance plan

On March 1, 2005, the Québec and federal governments reached an agreement on the implementation, on January 1, 2006, of the Québec parental insurance plan.

The purpose of the plan, under which a mandatory premium is paid, is to ensure the payment of benefits to eligible workers who take maternity, paternity, adoption or parental leave.

The tax policy relating to the plan was first presented in 1997[31]—the year in which the *Livre blanc sur les nouvelles dispositions de la politique familiale*, which proposed the introduction of the plan, was published—and updated on October 6, 2000,[32] the year in which the bill introducing the parental insurance plan was tabled in the National Assembly.

Since October 6, 2000, certain changes have been made to the Québec tax system, such as the introduction, following the elimination of the simplified taxation system, of a new basic amount for calculating the basic personal tax credit.

Given the changes that have been made to the Québec tax system since October 6, 2000, the tax implications stemming from the implementation of the parental insurance plan should be clarified.

❑ Premiums payable by employees

As of the 2005 taxation year, the basic amount granted to individuals in the calculation of their basic personal tax credit for a given taxation year is equal to the aggregate of the amount of recognized essential needs for the year[33] and a complementary amount equal to $2 965[34] or the total eligible contributions for the year, whichever is higher.

In this regard, an individual's total eligible contributions for a given year correspond to the aggregate of the following amounts:

— the amounts payable by the individual for the year as an employee premiums under the *Employment Insurance Act*;

— the amounts payable for the year by the individual as employee contributions under the *Act respecting the Québec Pension Plan* or an equivalent plan;

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[31] Ministère des Finances du Québec, 1997-1998 Budget, *Budget Speech and Additional Information*, Appendix A, pp. 226 and 227.

[32] Bulletin d'information 2000-5 of the ministère des Finances.

[33] This amount, which is automatically indexed, is $6 365 for the 2005 taxation year.

[34] This amount is indexed automatically.

- the amount corresponding to 50% of the amount payable for the year by the individual as contributions on self-employment income under the *Act respecting the Québec Pension Plan* or an equivalent plan;
- the amount payable for the year by the individual for the purposes of the 1% contribution to the Health Services Fund.

The basic amount thus calculated is converted into a non-refundable tax credit by applying the conversion rate for the year to the amount.

As of the 2006 taxation year, the amount (other than an excluded amount) payable by an individual as an employee premium or a premium in respect of an employment[35] for a given year under the *Act respecting parental insurance* will be included in the aggregate of the individual's eligible contributions for the year.

For the purposes of this measure, the amount payable by an individual for a given year in regard to an office or employment, as an employee premium or a premium in respect of an employment under the *Act respecting parental insurance* will be considered an excluded amount, where the aggregate of the individual's income for the year from the office or employment does not have to be included in the calculation of the individual's income for the year or is deductible in the calculation of the individual's taxable income.[36]

❑ Premiums payable by employers

Premiums payable by employers to the parental insurance plan will be deductible in the calculation of their income.

In addition, the portion of the premiums paid by employers to the parental insurance plan that is attributable to tips of an employee in the restaurant and hotel sector or that relates to the portion of the employee's annual leave indemnity that is attributable to tips will, like other employer contributions, give entitlement to the refundable tax credit respecting the reporting of tips.

Moreover, the portion of the premiums paid by employers to the parental insurance plan that is attributable to a salary payable for eligible services provided to a person 70 or older will, like other employer contributions, constitute an eligible expenditure for the purposes of the refundable tax credit for home support of an older person.

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[35] That is, the amount payable for a year by a person who is resident in Québec at the end of the year and who, in respect of an employment, reports for work at an establishment of the employer in Canada outside Québec or, if the person is not required to report for work at an establishment of the employer, whose salary is paid from such an establishment in Canada outside Québec.

[36] For example, the premium paid to the parental insurance plan in regard to the salary of an individual who is a foreign researcher, professor or specialist will be considered an excluded amount, where the individual can deduct the full salary in the calculation of his or her taxable income.

Lastly, individuals who can deduct the salary of an assistant or substitute in the calculation of their income from an office or employment will also be able to deduct any amount payable by them under the *Act respecting parental insurance* regarding that person's salary.

❑ Premiums payable by self-employed workers

The tax treatment of premiums payable by self-employed workers in regard to their business income will take into account the fact that the applicable rate for determining the premiums will exceed the rate for determining employee premiums given that self-employed workers are their own employer.

Thus, to standardize the tax treatment of the portion of the premium payable by a self-employed worker, regarding business income, that can be assimilated to an employee premium, with the treatment that will be applicable to the latter premium, the portion of the amount payable as a premium for a given year by a self-employed worker under the *Act respecting parental insurance*, represented by the ratio between the rate for determining the premium of an employee and the rate for determining the premium of a self-employed worker for the year, hereinafter called the "employee's share," will be included in the self-employed worker's total eligible contributions for the year for the purposes of determining the complementary amount used in the calculation of the basic personal tax credit.

The portion of the amount payable by an individual for a given year, as a self-employed worker's premium, that exceeds the employee's share will give entitlement to a deduction in the calculation of the individual's income for the year. In addition, the deduction will be granted in the calculation of the income used to determine the 1% contribution to the Health Services Fund payable by individuals.

For the purposes of these measures, no amount payable by an individual as a self-employed worker's premium under the *Act respecting parental insurance* for a given year in regard to a business will be able to be taken into account if the individual's total income from the business for the year does not have to be included in the calculation of the individual's income for the year or is deductible in the calculation of the individual's taxable income.[37]

❑ Taxation of benefits

Benefits paid under the parental insurance plan must be included in the calculation of the beneficiary's income for the taxation year in which the benefits are received.

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[37] For example, Indians will not be able to take into account the premium paid to the parental insurance plan on their business income if all of the income is attributable to an establishment situated on a reserve.

Like employment insurance benefits, parental insurance benefits will be subject to source deductions.

❑ Consequential amendments

Various consequential amendments will also be made to the current tax legislation to take into account the implemention of the parental insurance plan. Some of the amendments will be to recognize the mandatory nature of the premiums payable under the parental insurance plan,[38] while others will be to ensure that the tax treatment of benefits reimbursed under the plan does not differ from that of benefits reimbursed under the *Employment Insurance Act*.[39]

❑ Application date

These measures will be effective as of the 2006 taxation year.

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[38] For example, the tax legislation will be amended to provide that individuals may deduct, in the calculation of their income, fees and expenses incurred to prepare, file or pursue an objection or appeal respecting an assessment in regard to the work income of a self-employed worker under the *Act respecting parental insurance*.

[39] For example, the tax legislation will be amended to provide that individuals may deduct, in the calculation of their income, any portion of a parental insurance benefit they reimburse.

2. MEASURES CONCERNING BUSINESSES

2.1 Significant reduction in the tax on capital and technical changes

A corporation that has an establishment in Québec at any time in a taxation year is subject to the tax on capital, calculated on the basis of the paid-up capital shown in its financial statements for the year, prepared in accordance with generally accepted accounting principles.

The rate applicable to paid-up capital and how it is calculated are different depending on whether the corporation is a financial institution or not.

In general, the paid-up capital of a corporation that is not a financial institution is obtained by adding most of the amounts shown in the "shareholders' equity" and "long-term liabilities" sections of the balance sheet. To avoid double taxation, paid-up capital is reduced regarding investments made in other corporations, and a deduction is allowed for certain items. Lastly, a rate of 0.6% is applied to such paid-up capital.

The tax on capital applicable to financial institutions is calculated on a different basis than that of other corporations. This distinction is essentially attributable to the fact that it would not be appropriate to tax some liabilities of financial institutions, chiefly deposits. Furthermore, a rate of 1.2% is applied to their paid-up capital.

To keep Québec's tax system competitive and stimulate investment in Québec, the rates of the tax on capital will be gradually reduced to less than 50% of those that currently apply.

In addition, a capital tax credit will be introduced to enable corporations, other than financial institutions, that make certain types of investments to enjoy even greater reductions in their capital tax burden.

Lastly, two technical changes will be made to the reduction for investment a corporation other than a financial institution may claim in calculating its paid-up capital.

2.1.1 Rates of tax on capital cut by more than half by 2009

☐ Corporations that are not financial institutions

The rate of the tax on capital of corporations that are not financial institutions, currently 0.6%, will be gradually reduced to 0.29%. These rate reductions will take effect on January 1 of each year.

More specifically, this reduction will be granted gradually, as of January 1 of each year from 2006 to 2009. Accordingly, the first reduction will apply as of January 1, 2006, the rate of the tax falling from 0.6% to 0.525%. Thereafter, the rate will be reduced by 0.035 percentage points on January 1, 2007, by 0.13 percentage points on January 1, 2008 and lastly by 0.07 percentage points on January 1, 2009, when the rate will be 0.29%.

The following table gives the rates of the tax on capital of corporations that are not financial institutions, from now until 2009.

TABLE 1.2

RATE OF THE TAX ON CAPITAL
(Per cent)

	Current	**2006**	**2007**	**2008**	**2009**
Rate of the tax on capital	0.6	0.525	0.49	0.36	0.29

Note: The rate reductions will become effective on January 1 of each year.

If a corporation's taxation year does not coincide with the calendar year, the rate effectively applicable for such taxation year that straddles two calendar years will be a weighted rate reflecting the number of days of the taxation year included in each of the two calendar years.

❑ Financial institutions

The rate of the tax on capital of financial institutions, currently 1.2%, will be gradually reduced to 0.58%. The corporations covered by this reduction are banks, savings and credit unions, loan companies, trust companies and corporations that trade in securities.

More specifically, this reduction will be granted gradually, as of January 1 of each year from 2006 to 2009. Accordingly, the first reduction will apply as of January 1, 2006, the rate of the tax falling from 1.2% to 1.05%. Thereafter, the rate will be reduced by 0.07 percentage points to 0.98% on January 1, 2007, by 0.26 percentage points to 0.72% on January 1, 2008 and lastly by 0.14 percentage points to 0.58% on January 1, 2009.

If a corporation's taxation year does not coincide with the calendar year, the rate effectively applicable for such taxation year that straddles two calendar years will be a weighted rate reflecting the number of days of the taxation year included in each of the two calendar years.

2.1.2 Introduction of a capital tax credit regarding certain types of investments

To encourage corporations other than financial institutions to make investments in certain sectors, such corporations will be allowed, under a temporary measure, to benefit from even more substantial reductions of their capital tax burden.

More specifically, a corporation other than a financial institution that makes an eligible investment, during a taxation year, may claim a non-refundable capital tax credit, for such taxation year, equal to 5% of the amount of such eligible investment. Accordingly, a corporation will be allowed to claim such capital tax credit, for a taxation year, up to the tax on capital otherwise payable by it for such taxation year.

To that end, the tax on capital otherwise payable by a corporation, for a taxation year, will correspond to the tax on capital otherwise payable by the corporation, for such taxation year, calculated without regard to the refundable tax credits the corporation may otherwise claim as well as the non-refundable portion of the tax credit relating to mining, oil, gas or other resources.[40] For greater clarity, the tax credit otherwise payable by a corporation, for a taxation year, will be the one calculated after application of the proportion of its business done in Québec for such taxation year.

Moreover, where all or part of the capital tax credit relating to an eligible investment made during a taxation year cannot be applied against the tax on capital otherwise payable, for such taxation year, the non-refundable portion of such capital tax credit that exceeds the tax on capital otherwise payable for such taxation year may be carried over to subsequent taxation years and applied against the tax on capital otherwise payable for such years.

- **Eligible investments**

For the purposes of this capital tax credit, eligible investments are manufacturing and processing equipment, i.e. assets of class 43.

In addition, such assets will be covered by the same rules that applied to assets that previously enjoyed specific tax benefits,[41] in particular the requirement that they begin to be used within a reasonable time during a period of at least 730 days, solely in Québec and mainly in the course of carrying on a business. Similarly, the assets will have to be new.

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[40] For greater clarity, the capital tax credit relating to an eligible investment a corporation will be allowed to claim for a taxation year will not reduce the non-refundable portion of the tax credit relating to mining, oil, gas or other resources the corporation will be allowed to receive for the same taxation year.

[41] These specific tax benefits included an accelerated depreciation deduction of 100% to which was added a supplementary deduction of 25% for depreciation as well as a holiday from the tax on capital for two years. In addition, taxpayers who carried on part of their business in Québec and part of it outside Québec could claim an additional deduction equal to 20% of the deduction for depreciation. These specific tax benefits were eliminated in the June 12, 2003 Budget Speech.

The amount of an eligible investment of a corporation, for a taxation year, will correspond to the portion of the capital cost of the eligible investment that is incurred in the year by the corporation.

These assets will have to be acquired after the day of this Budget Speech and before January 1, 2008, unless:

— they are acquired in accordance with a written obligation contracted no later than the day of this Budget Speech;

— construction of such assets, by the taxpayer or for him, was underway on the day of this Budget Speech.

- **Other application details**

Corporations other than a financial institution that are members of a partnership may also benefit from this capital tax credit regarding eligible investments made by such partnership. In such a case, the eligibility of the investment will be determined regarding the partnership, but the capital tax credit will be attributed to each member corporation of the partnership, for its taxation year in which the fiscal year of the partnership in which the eligible investment is made by the partnership ends, depending on their respective share of the income or loss of such partnership for such fiscal year. Each member corporation will then determine the amount of the capital tax credit it may claim for such taxation year and, if applicable, the portion of such capital tax credit it must carry forward to a subsequent taxation year.

Furthermore, a corporation will be allowed to apply this capital tax credit against the instalments, if any, it must make regarding both the portion thereof attributable to income tax and that attributable to the tax on capital, according to the usual rules otherwise applicable regarding reductions in instalments in relation to refundable tax credits.

As specified above, use of the capital tax credit will be limited for each taxation year on the basis of the tax on capital otherwise payable by the corporation.

Consequently, a corporation that, for a taxation year, reduces its instalments by an amount greater than that of its tax on capital otherwise payable for such taxation year, will not be penalized, provided the amount of such reduction does not exceed its capital tax credit available for such taxation year. However, it will have to make the appropriate adjustment on the date the balance is due, i.e. two months after the end of its taxation year.

This approach has the dual advantage of not requiring the corporation to estimate, during the year, the maximum amount of the capital tax credit it may claim for such taxation year and of preserving the general principle regarding the reduction of instalment payments.

For example, a corporation whose fiscal year ends on December 31 of each year, with initial paid-up capital of $10 million and that makes an eligible investment of $2 million during the summer of 2005, may reduce its instalment payments for taxation year 2005 by a total amount of $100 000 in relation to this investment.[42] However, since it may only claim $72 000 of capital tax credit for its 2005 taxation year, i.e. the amount of the tax on capital payable for its 2005 taxation year,[43] the corporation will have to make the appropriate adjustment of $28 000 on the due date of the balance, i.e. February 28, 2006.

Moreover, where, during a given taxation year, an eligible investment ceases to be used for the purposes indicated above during the minimum period of use of 730 days, the tax benefit will be lost as a result. More specifically, the portion of the capital tax credit claimed for a taxation year preceding such given taxation year, and attributable to such investment, will be recaptured by means of a special tax. The portion of the capital tax credit not claimed for a preceding taxation year and included in the balance of capital tax credit carried over at the beginning of the given taxation year will be cancelled.

For greater clarity, the rules limiting the use of losses in case of acquisition of control of a corporation will also apply to the balance of the capital tax credit carried over. Accordingly, in the case of acquisition of control of a corporation, the balance of the capital tax credit may be carried over exclusively against the tax on capital attributable to the business, or to its extension, carried on by the corporation prior to such acquisition of control.

Lastly, the amount of an eligible investment regarding which a capital tax credit is claimed by an eligible corporation must have been paid at the time the capital tax credit is claimed.

2.1.3 Technical change concerning the calculation of total assets

The calculation of the paid-up capital of a corporation that is not a financial institution includes a reduction in paid-up capital in relation to investments made in other corporations, in order to avoid double taxation.

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[42] I.e. 5% x $2 000 000 = $100 000.

[43] The tax on capital at the rate of 0.6% being calculated on paid-up capital of $12 million following the investment, i.e. $12 000 000 x 0.6% = $72 000.

It should be noted that the reduction for investment that a corporation may claim is not a deduction. In general, the reduction for investment a corporation may claim in calculating its paid-up capital corresponds[44] to the amount obtained by applying to paid-up capital determined before such reduction the proportion represented by the value of its investments in relation to the amount of its total assets.[45]

Because of this reduction mechanism, when a corporation's assets increase through the addition of assets other than eligible investments, the result is a decrease in the reduction for investment the corporation may claim regarding eligible investments, because the proportion represented by its investments over its total assets is reduced.[46]

In addition, when a corporation holds an interest in a partnership, such corporation must include or deduct its share of the various components of the calculation of the paid-up capital of the partnership, in particular its share of the total assets of the partnership.

To avoid double counting the items resulting from operations between a partnership and its members, special rules apply where such member is a corporation. Accordingly, in keeping with the principle generally applicable regarding consolidation, the rules for calculating the paid-up capital of a corporation that has an interest in a partnership stipulate the exclusion of operations between a partnership and its members.

However, this general principle does not work for some types of transactions. Such is the case, for instance, when a corporation transfers a fixed asset to a partnership in which it has an interest, and obtains a note receivable as consideration.[47]

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[44] It is generally possible to consider that the reduction for investment a coporation may claim in calculating its paid-up capital corresponds to the amount obtained by applying to the value of its investments, the proportion represented by the paid-up capital determined before such reduction in relation to the amount of its total assets. The mathematical result is obviously the same. The perspective for determining the reduction is simply different, i.e. by emphasizing the method of financing the corporation's assets rather than the amount of such corporation's investment.

[45] Total assets correspond to total assets according to the financial statements, to which adjustments are made to reflect certain items, such as provisions.

[46] For example, the paid-up capital of a corporation holding eligible investments for the purposes of the reduction for investment will increase if its year-end inventory is higher, even if such increase in its inventory is financed entirely by accounts payable of six months or less, a form of financing that is not added in the calculation of paid-up capital. Such an increase in its assets causes the proportion of its investments to its total assets to fall.

[47] Note that the situation does not cause a problem where the corporation receives an increase in its interest in the partnership rather than a note receivable. In such a case, normal consolidation rules apply and they work perfectly well.

In such a case, the existing tax rules do not allow the note receivable to be excluded from the calculation of the corporation's total assets. Accordingly, since the fixed asset that was transferred remains an item that must be included in calculating the corporation's paid-up capital, the result is an artificial increase in its total assets. In calculating the corporation's total assets, the note receivable is included as well as, in the same calculation, the share of the fixed asset that was transferred, which share is also included in the share of the total assets of the partnership.

This artificial increase in the corporation's total assets decreases the reduction for investment such corporation may claim in relation to its eligible investments, and this result is contrary to fiscal policy in this regard.

Accordingly, the tax legislation will be amended to stipulate that a corporation must neither include nor deduct, in calculating the corporation's assets, an amount shown in its financial statements resulting from an operation between it and a partnership or a joint venture of which it is a member.

For greater clarity, to avoid creating an unwanted deduction, this change will not apply regarding an amount shown in the financial statements of a corporation and resulting from an operation between it and a partnership or a joint venture of which it is a member, provided such operation gives rise to an increase in the interest of the corporation in such partnership or such joint venture of which it is a member. In this regard, the existing tax provisions already stipulate an appropriate treatment.

The application of this change will be declaratory, except regarding taxation years prescribed the day of this Budget Speech. Accordingly, it will also apply to a taxation year for which a notice of objection, an appeal or a waiver of prescription, bearing in particular on this item, is duly served on the Minister of Revenue, before the day of this Budget Speech.

However, concerning a taxation year that is not prescribed on the day of this Budget Speech and for which an application for adjustment proves necessary, a corporation must have filed such an application by the prescription date applicable to such taxation year or that corresponding to the 90th day following the date the statute giving effect to this change is assented to, whichever is later.

2.1.4 Application of the minimum 120-day holding period rule to bonds issued by partnerships

The calculation of the paid-up capital of a corporation that is not a financial institution includes a reduction in paid-up capital in relation to investments made in other corporations, to avoid double taxation.

However, the reduction for investment is limited to investments that are shares, bonds, loans and advances, bankers' acceptances and other similar securities, as well as certain amounts receivable from another corporation.

In addition, certain investments made in a partnership can also enable the corporation holding them to claim a reduction for investment, provided the amount of liabilities resulting therefrom for the partnership is included in calculating the paid-up capital of a corporation that has an interest in such partnership.

Moreover, an integrity rule stipulates a minimum holding period for the investment of 120 days including the end of the year. Briefly, this rule is designed to avoid end-of-year tax planning.

For technical reasons, bonds issued by a partnership are currently not subject to the minimum 120-day holding period rule and this result is contrary to fiscal policy in this regard.

Accordingly, the tax legislation will be amended to stipulate that bonds issued by a partnership will be subject to the minimum holding period of 120 days including the end of the taxation year.

This amendment is designed to ensure the same treatment as that applicable to bonds issued by a corporation, which are subject to a minimum holding period of 120 days including the end of the taxation year.

This change will apply to taxation years ending after the day of this Budget Speech.

2.2 Major adjustment to corporate income tax

A corporation with an establishment in Québec is required to pay tax on its taxable income. The general rate of this tax is 16.25% and a reduction of 7.35 percentage points is applied regarding active income. Consequently, a rate of 16.25% is applied to passive income, while a rate of 8.9% is applied to active income.

In view of the substantial reduction in capital tax rates that corporations will enjoy and the reduction in the rate of federal tax applicable on active income,[48] the tax rate applied to active income will be raised gradually by 3 percentage points. Moreover, to introduce a degree of progressivity in tax payable by corporations, a small-business deduction will be introduced that will enable corporations that can claim it to reduce the tax rate applicable on their active income to 8.5%, which is lower than the current rate.

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[48] Including the elimination of the corporate surtax and the rate reductions announced in the February 23, 2005 federal Budget Speech.

2.2.1 Tax rate raised for large corporations

As specified above, a corporation with an establishment in Québec is required to pay tax on its taxable income. A rate of 16.25% is applied to passive income, while a rate of 8.9% is applied to active income.

The tax rate applicable to active income will be raised gradually, from 2006 to 2009, by 3 percentage points. These rate increases will take effect on January 1 of each year concerned.

More specifically, the rate applicable to active income will rise from its current rate of 8.9% to 9.9% in 2006, to 11.4% in 2008 and finally to 11.9% in 2009. This increase in the tax rate will result from a corresponding decrease in the reduction of the general rate of 16.25%, which reduction is applicable regarding active income. Accordingly, such reduction will gradually decrease by 3 percentage points, from 7.35 percentage points to 4.35 percentage points.

The following table shows the income tax rates applicable to a large corporation before and after this major adjustment.

TABLE 1.3

TAX RATES APPLICABLE TO ACTIVE INCOME
(Per cent)

	Current	2006	2007	2008	2009
Tax rates applicable to active income	8.9	9.9	9.9	11.4	11.9

Note: The rate increases will become effective on January 1, 2006, 2008 and 2009.

If a corporation's taxation year does not coincide with the calendar year, the tax rate effectively applicable for such taxation year that straddles two calendar years will be a weighted tax rate reflecting the number of days of the taxation year included in each of the two calendar years.

For greater clarity, the instalments of a corporation for a taxation year that does not coincide with the calendar year will have to be calculated using the weighted tax rate applicable to such taxation year.

In the specific case of instalments of a corporation whose 2006 taxation year straddles the day of this Budget Speech, they will have to be adjusted, according to the usual rules, as of the first instalment following such day, to reflect the effects of this change.

2.2.2 Tax rate lowered for small corporations

As specified above, a small-business deduction will be introduced to bring a degree of progressivity in tax payable by corporations and enable corporations that can benefit from it to reduce the tax rate applicable to their active income to a rate lower than the current rate.

More specifically, the tax rate applicable to the active income of small corporations will fall from 8.9% to 8.5% as of January 1, 2006. In practice, this rate will be obtained by gradually subtracting percentage points from the general tax rate applicable regarding active income.

The following table shows the tax rates applicable to income eligible for the small-business deduction, before and after this major adjustment.

TABLE 1.4

TAX RATES APPLICABLE TO INCOME ELIGIBLE FOR THE SMALL-BUSINESS DEDUCTION
(Per cent)

	Current	2006	2007	2008	2009
Tax rates applicable to active income	8.9	9.9	9.9	11.4	11.9
Small-business deduction	(0)	(1.4)	(1.4)	(2.9)	(3.4)
Tax rates applicable to income eligible for the small-business deduction	8.9	8.5	8.5	8.5	8.5

Note: The effective decrease in the rate will come into effect on January 1, 2006.

Only Canadian-controlled private corporations (CCPC) will be entitled to this reduction in their tax rate. In addition, this reduction will apply only to the first $400 000 of annual income from an eligible business carried on by a CCPC.

Accordingly, private corporations with paid-up capital greater than $15 million will not be able to claim this reduction. More specifically, this reduction will gradually be lost as of $10 million in paid-up capital, and will be lost entirely as of $15 million in paid-up capital.

For instance, for a corporation that otherwise has a business limit of $400 000 and whose paid-up capital used for the purposes of this progressive loss is $12 million, its business limit will be reduced to $240 000.[49]

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[49] $400 000 - ($400 000 x (($12 000 000 - $10 000 000) / $5 000 000)) = $240 000

In addition, the annual business limit of $400 000 will have to be shared among associated corporations and the paid-up capital as of which the small-business deduction is lost will be that of all the corporations of a group of associated corporations, on a Canadian basis.

Moreover, an adjustment will be made to the paid-up capital used for the purposes of the gradual loss of the small-business deduction, in relation to corporations other than corporations subject to the current capital tax rate of 0.6% (financial institutions).[50] More specifically, the paid-up capital used in such cases will be equal to double the paid-up capital otherwise determined.

Essentially, this adjustment is attributable to the fact that the rate of the tax on capital applicable to paid-up capital, as well as the method of calculating the latter are different depending on whether the corporation is a financial institution or a corporation that is not a financial institution. Corporations with a comparable economic weight must support a comparable income tax burden even if their economic weight is measured on different bases. Accordingly, this adjustment is designed to take into consideration the different method of calculation of paid-up capital for financial institutions.[51]

Lastly, the exact application details of this small-business deduction will be those that applied regarding the former small-business deduction before its elimination on July 1, 1999, except for the rate of the reduction that will rise gradually to 3.4 percentage points rather than 3.15 percentage points, the business limit that will be $400 000 rather than $200 000, and the specific feature relating to paid-up capital used for the purposes of the gradual loss of the small-business deduction in the case of financial institutions.

If a corporation's 2006 taxation year does not coincide with the calendar year, the rate effectively applied for such 2006 taxation year that straddles calendar years 2005 and 2006 will be a weighted tax rate reflecting the number of days of the taxation year included in each of the two calendar years.

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[50] For greater clarity, this adjustment will also apply to insurance companies since the paid-up capital used by them for the purposes of the gradual loss of the small-business deduction is a theoretical paid-up capital calculated assuming that the capital tax system of other financial institutions also applies to insurance companies.

[51] This adjustment to the paid-up capital of financial institutions to be used for the determination of the business limit will also apply when a financial institution is associated with other corporations subject to the current capital tax rate of 0.6% and the business limit applicable to this group of associated corporations must be determined.

For greater clarity, only the paid-up capital of the financial institution will be subject to this adjustment, but its effects on the business limit will apply to all the associated corporations. This adjustment applied only to the financial institution will make it possible to consider the real economic weight of the group of associated corporations, even if they are subject to two different capital tax regimes.

For greater clarity, the business ceiling for a taxation year 2006 that straddles calendar years 2005 and 2006 will be determined on the basis of the total number of days of such taxation year and not on the basis of the number of days included in calendar year 2006. In this regard, the small-business deduction rate will itself reflect the fact that it becomes effective on January 1, 2006.

Moreover, a corporation's tax instalments will, according to the usual rules, take into consideration the effects of this small-business deduction.

2.3 Changes to various refundable tax credits granted in certain regions

In recent years, three refundable tax credits were put in place to encourage job creation in the resource regions of Québec, namely the refundable tax credit for processing activities in the resource regions, the refundable tax credit for Gaspésie and certain maritime regions of Québec and the refundable tax credit for the Vallée de l'aluminium.

In general, these tax credits are granted with respect to the increase in payroll attributable to eligible employees of an eligible corporation operating in a target region, regarding five consecutive calendar years.

More specifically, to determine its refundable tax credit, a corporation must compare its payroll of a given calendar year with that of its reference calendar year. Such reference calendar year corresponds to the calendar year preceding the one in the course of which the corporation began to carry on a certified business, i.e. a business regarding which an eligibility certificate was issued by Investissement Québec. However, to receive a tax credit, an eligible corporation must begin to carry on a certified business in one of the target regions no later than in calendar year 2007.

Since they were introduced, various adjustments have been made to these three refundable tax credits. Accordingly, to recognize the exceptional aspect of the economic situation in 2001, a temporary adjustment was announced in the November 1, 2001 Budget Speech that allowed a corporation to apply for the cancellation of its eligibility certificate and obtain another eligibility certificate in a subsequent year.

In addition, the terms and conditions of issuing eligibility certificates and of determining the three refundable tax credits were changed in the June 12, 2003 Budget Speech to mitigate the impact resulting in particular from the transfer of employees between certified businesses carried on by the same corporation.

Since these three refundable tax credits were introduced during 2000 and 2001, most of the corporations receiving this tax assistance will no longer be eligible for it in 2005 or 2006. However, since the eligibility period extends to December 31, 2007, other corporations operating in the same sectors may receive tax assistance until December 31, 2011, which may lead to undesirable competition among such corporations.

The impact of these three tax credits in terms of job creation shows that these measures are contributing to the economic development and diversification of the regions where the employment situation is the most difficult.

Accordingly, the three tax credits will be changed so that the period during which eligible corporations may receive tax assistance will henceforth be established on the basis of a common deadline.

In addition, the notion of certified business will be adjusted for the purposes of the three refundable tax credits and a clarification will be made to the terms and conditions for issuing eligibility certificates.

Lastly, the application details of the three refundable tax credits will be changed to mitigate the impact of the changes of June 12, 2003 for an eligible corporation that has already obtained the cancellation of an eligibility certificate in the circumstances described above and that, when applying for a new eligibility certificate, carries on another certified business.

☐ Refundable tax credit for processing activities in the resource regions

Briefly, the refundable tax credit for processing activities in the resource regions is granted regarding the increase in payroll attributable to eligible employees of an eligible corporation operating in a resource region of Québec, regarding five consecutive calendar years.

To be eligible, a corporation must carry on a certified business, i.e. a business regarding which an eligibility certificate has been issued by Investissement Québec and whose activities relate in particular to the secondary or tertiary processing of wood or metals.

To determine its refundable tax credit for a given calendar year, an eligible corporation must compare its payroll for such calendar year with that of its reference calendar year. Such reference calendar year corresponds to the calendar year preceding the one in the course of which the corporation began to carry on a certified business.

- **Eligibility period for tax assistance**

According to existing terms and conditions, an eligible corporation may receive the refundable tax credit for a period of five consecutive calendar years. Since most corporations began to carry on a certified business during calendar year 2001, they will no longer be able to receive the tax credit as of calendar year 2006. However, since the eligibility period for the tax credit ends December 31, 2007, corporations operating in the same sectors could receive tax assistance until December 31, 2011. Accordingly, in some cases, the tax assistance could lead to undesirable competition among such corporations.

Moreover, although the situation regarding manufacturing employment in the resource regions has improved in recent years, the industrial structure of these regions continues to depend heavily on traditional sectors. The fiscal measures fostering the economic development and diversification of the resource regions must therefore be maintained.

So as not to imperil the economic development process that these measures are helping to support and to ensure that they do not hinder competitiveness among eligible corporations operating in targeted regions, the period during which eligible corporations may receive tax assistance will no longer be limited to five consecutive calendar years but rather will be determined on the basis of a common deadline for all eligible corporations.

Accordingly, any corporation that is already eligible for the tax credit for processing activities in the resource regions may continue to receive it, in accordance with the terms and conditions previously stipulated, until December 31, 2009. Consequently, an eligible corporation that began carrying on a certified business during calendar year 2001 will receive the tax credit for four additional calendar years. In addition, the increase in payroll, for such extension, will be established on the basis of the corporation's current reference calendar year.

For greater clarity, this extension of tax assistance will not change the beginning of the tax credit eligibility period. Accordingly, to receive the refundable tax credit for processing activities in the resource regions, an eligible corporation must begin carrying on a certified business no later than during calendar year 2007. In such a case, such corporation may claim the tax credit regarding three consecutive calendar years.

- **Adjustment to the notion of certified business**

For the purposes of the refundable tax credit, the notion of certified business includes the commercialization activities of an eligible corporation when they are incidental to the manufacturing or processing activities that such a corporation carries out otherwise. In addition, installation activities incidental to the manufacturing or processing activities of such corporation or of a corporation associated with it can be considered as activities of a certified business for the purposes of the tax credit.

Beginning in calendar year 2005, the notion of certified business will be changed to include the commercialization activities of an eligible corporation where such activities are incidental to the manufacturing or processing activities carried out by a corporation associated with it.

For greater clarity, where the activities of an eligible corporation include both commercialization and installation activities, such activities must constitute, overall, activities that are incidental to the activities of an associated corporation in order to be considered activities of a certified business.

- **Clarification concerning the terms and conditions of issuing eligibility certificates**

Since calendar year 2003, a corporation must obtain an annual eligibility certificate from Investissement Québec regarding its certified business, such certificate reflecting the activities carried out by the eligible corporation for a given calendar year.

Moreover, according to the existing terms and conditions, an eligible corporation may hold many eligibility certificates since it can carry on more than one certified business for the purposes of any of the tax credits. However, to determine the tax credit, the increase in such corporation's payroll must be determined for all its certified businesses. This rule, introduced in the June 12, 2003 Budget Speech, is designed to recognize the impact of a transfer of employees between certified businesses.

Investissement Québec's administrative practice is to issue, for a given calendar year, only one eligibility certificate per eligible corporation that indicates, for each certified business, all the activities carried out by the eligible corporation in a given sector.

Accordingly, in view of the fact that the increase in payroll must be determined on a consolidated basis since calendar year 2003 and since these fiscal measures can be administered more easily by issuing one certificate per eligible corporation, it is appropriate to confirm that the administrative practice of Investissement Québec corresponds to fiscal policy.

- **Cancellation of an eligibility certificate arising from the economic situation in 2001**

As mentioned above, to recognize the exceptional aspect of the economic situation in 2001, a temporary adjustment was announced in the November 1, 2001 Budget Speech that enables an eligible corporation to apply for the cancellation of an eligibility certificate issued regarding a certified business and to apply for a new eligibility certificate in a subsequent calendar year.

In such a case, the reference calendar year of the new certificate generally corresponds to the calendar year preceding the one during which Investissement Québec issued the new certificate. However, further to the changes made in the June 12, 2003 Budget Speech, if such corporation already carries on another certified business, the reference calendar year of the new certificate is then the same as that established regarding such other certified business.

In addition, an eligible corporation that carries on many businesses regarding which eligibility certificates have been issued must, as of calendar year 2003, determine the increase in its payroll on a consolidated basis. This rule ensures that for an identical payroll, a corporation carrying on more than one certified business does not obtain more tax assistance, as tax credits, than a corporation carrying on a single certified business.

This rule could penalize an eligible corporation that obtained the cancellation of an eligibility certificate for a certified business and, when it applies for a new eligibility certificate, already carries on another certified business for which the reference calendar year is different from that of the certified business whose certificate was cancelled. According to the payroll attributable to either of these reference calendar years, the tax assistance then obtained for all the certified businesses may be less than what the corporation could have obtained had it not applied for the cancellation of its eligibility certificate.

Accordingly, to mitigate the impact of the changes of June 12, 2003 while maintaining their objective, the application details of the refundable tax credit for processing activities in the resource regions will be changed to allow a corporation that obtained the cancellation of an eligibility certificate arising from the economic situation in 2001 to determine the increase in its payroll either on the basis of the reference calendar year of the eligibility certificate that was cancelled, or on the basis of the reference calendar year of the other certified business it carries on otherwise.

For example, a corporation obtained, during 2002, the cancellation of an eligibility certificate issued for calendar year 2001 and applies for a new eligibility certificate regarding the same business for calendar year 2005. Such corporation also holds an eligibility certificate regarding another certified business, for calendar year 2002. In such a case, Investissement Québec will issue, for calendar year 2005, a new eligibility certificate for which the reference calendar year will be, at the corporation's option, calendar year 2000 or calendar year 2001.

This change will apply to new eligibility certificates obtained for a calendar year subsequent to calendar year 2002.

❑ Refundable tax credit for Gaspésie and certain maritime regions of Québec

Briefly, the refundable tax credit for Gaspésie and certain maritime regions of Québec is allowed with respect to the increase in payroll attributable to eligible employees of an eligible corporation operating in the administrative regions of Gaspésie–Îles-de-la-Madeleine, Côte-Nord, Bas-Saint-Laurent[52] and in the Matane RCM, regarding five consecutive calendar years.

To be eligible, a corporation must carry on a certified business, i.e. a business regarding which an eligibility certificate has been issued by Investissement Québec and whose activities are carried out in the marine or wind-power resources development sectors.

Moreover, to enable the emerging sectors of marine biotechnology and mariculture to reach their full economic potential, two adjustments were made to the application details of this tax credit in the March 30, 2004 Budget Speech. It was then stipulated that the changes made in the June 12, 2003 Budget Speech concerning the terms and conditions for issuing eligibility certificates and the determination of the tax credits would not apply to a certified business of an eligible corporation operating in the marine biotechnology and mariculture sectors.

Like the changes made to the refundable tax credit for processing activities in the resource regions, the change relating to the length of the tax assistance, the change made to the notion of certified business, the clarification relating to the terms and conditions for issuing eligibility certificates and the adjustment relating to the cancellation of an eligibility certificate will also be applied according to the same rules and application dates as those indicated in the case of the refundable tax credit for processing activities in the resource regions.

However, in view of the specific features mentioned above, the clarification relating to the terms and conditions for issuing eligibility certificates and the adjustment relating to the cancellation of an eligibility certificate will only apply regarding an eligible corporation whose certified businesses are not carried on in the marine biotechnology or mariculture sectors.

❑ Refundable tax credit for the Vallée de l'aluminium

The refundable tax credit for the Vallée de l'aluminium is granted regarding the increase in payroll attributable to eligible employees of an eligible corporation operating in the Saguenay–Lac-Saint-Jean, regarding five consecutive calendar years.

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[52] The Bas-Saint-Laurent region is an eligible region for activities carried out in the marine biotechnology and mariculture sector.

To be eligible, a corporation must carry on a certified business, i.e. a business regarding which an eligibility certificate has been issued by Investissement Québec and whose activities consist, in particular, in making finished or semi-finished products from aluminum that has undergone primary processing.

Like the changes made to the refundable tax credit for processing activities in the resource regions, the change relating to the length of the tax assistance, the change made to the notion of certified business, the clarification relating to the terms and conditions for issuing eligibility certificates and the adjustment relating to the cancellation of an eligibility certificate will also be applied according to the same rules and application dates as those indicated in the case of the refundable tax credit for processing activities in the resource regions.

2.4 Measures fostering innovation

2.4.1 Refundable tax credits for R&D

A person or a partnership that carries on a business in Canada and does scientific research and experimental development (R&D) work in Québec, or has such work done on his behalf in Québec, may be eligible for various refundable tax credits for R&D.

An initial refundable tax credit, commonly called "R&D salary", applies to the salary that a person pays his employees when it does its R&D work in Québec, or to half the amount of the research contract when the R&D work is awarded to a sub-contractor who is at arm's length with such person. The rate of this refundable tax credit is 17.5%, but it can vary from 17.5% to 35% in the case of a Canadian-controlled corporation that is an SME.[53]

A second refundable tax credit, commonly called "university R&D", applies to 80% of the amount of a research contract, where the R&D work is sub-contracted to an eligible university entity, an eligible public research centre or an eligible research consortium to which the person awarding such R&D work is not related. The rate of this tax credit is 35%.

A third refundable tax credit, hereunder called "pre-competitive R&D", concerns pre-competitive research, catalyst projects and environmental technology innovation projects. This refundable tax credit applies, concerning pre-competitive research, to R&D work that a number of persons agree to do in Québec or to have done for them in Québec under a research contract. The rate of this tax credit is 35%.

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[53] An SME can benefit from the different rate if it is a Canadian-controlled corporation whose assets, including the assets of associated corporations calculated on a world basis, are less than $50 million for the preceding fiscal year. More specifically, where such assets are less than $25 million, the rate is 35%, which rate reduces linearly to 17.5% where assets vary from $25 million to $50 million. The higher rate applies solely to the first $2 million of R&D spending.

A fourth refundable tax credit concerns dues and fees paid to an eligible research consortium. Essentially, this refundable tax credit bears on the dues and fees that a person pays to an eligible research consortium, and that can be reasonably considered to relate to the R&D work done by the consortium in relation with a business of such person. The rate of this tax credit is 35%.

The purpose of these refundable tax credits for R&D is to increase R&D spending in Québec. In addition, like the other refundable tax credits targeting businesses, the refundable tax credits for R&D are designed to foster economic spin-offs for Québec, in particular in the form of job creation or increased investment.

SMEs in Québec are less inclined than large companies to carry out R&D since R&D spending is upstream of revenue-generating activities, is expensive and, by definition, does not always lead to commercially viable results.

Accordingly, the legislation will be amended, to raise the level of tax assistance for R&D granted to SMEs and re-focus such tax assistance on Québec companies.

Lastly, clarifications will also be provided concerning the procedure for recognizing eligible public research centres for the purposes of the refundable tax credits for R&D.

Increase in the level of tax assistance for R&D granted to SMEs

As mentioned above, according to the existing tax legislation, a Canadian-controlled corporation that qualifies as an SME can receive the refundable tax credit for "R&D salary" at a rate varying from 17.5% to 35%, for the first $2 million of R&D spending.

The tax legislation will be amended so that the rate that a Canadian-controlled corporation that qualifies as an SME can claim will henceforth vary from 17.5% to 37.5% on the first $2 million of R&D spending, according to the same terms and conditions as those that currently prevail.

TABLE 1.5

ILLUSTRATION OF THE GRADUAL RISE IN THE LEVEL OF TAX ASSISTANCE FOR R&D GRANTED TO SMEs

Assets of the corporation (Millions of dollars)	Current rates (Per cent)	New rates (Per cent)
25 or less	35	37.5
30	31.5	33.5
35	28	29.5
37.5	26.25	27.5
40	24.5	25.5
45	21	21.5
50	17.5	17.5

This change will apply to R&D expenditures incurred after the day of this Budget Speech for R&D work done after such day.

For greater clarity, the R&D expenditures that a Canadian-controlled corporation that qualifies as an SME incurs after the day of this Budget Speech, for R&D work done after such day, but under a research contract concluded before such day, will also give rise to a refundable tax credit for "R&D salary" at a rate varying from 17.5% to 37.5% on the first $2 million of R&D spending.

❑ Obligation to carry on a business in Québec and have an establishment there

Under existing tax legislation, a person or a partnership who carries on a business in Canada and who does R&D work in Québec, or has such work done in Québec on his behalf, may be eligible for the refundable tax credit for "R&D salary", the refundable tax credit for "university R&D" and the refundable tax credit for "pre-competitive R&D".

As mentioned above, the tax legislation will be amended to re-focus the tax assistance allowed under these tax credits on Québec companies.

More specifically, the tax legislation will be amended so that a person or partnership is required to carry on a business in Québec and have an establishment there to be eligible for the refundable tax credit for "R&D salary", the refundable tax credit for "university R&D" and the refundable tax credit for "pre-competitive R&D".

This change will apply to R&D expenditures incurred by a person or a partnership in relation to a business it carries on and whose fiscal year begins after the day of this Budget Speech.

However, this change will not apply to R&D spending incurred after the day of this Budget Speech, for R&D work done after such day, under a research contract concluded prior to such day.

For greater clarity, this change will not apply in the case of the refundable tax credit relating to dues and fees paid to an eligible research consortium, because of the particular nature of that tax credit.

The tax assistance granted under that tax credit does not bear on R&D spending relating to a specific R&D project, unlike the other tax credits for R&D, but rather on the financing of an eligible research consortium located in Québec.

❑ Pre-competitive research project

Under the existing tax legislation, to receive the refundable tax credit for "pre-competitive R&D", a taxpayer that carries on a business in Canada must conclude an agreement with a person or a partnership, under which the parties agree to do R&D work in Québec, or to have such work done in Québec on their behalf.

As mentioned above, the tax legislation will be amended so that a person or partnership will be required to carry on a business in Québec and have an establishment there to be eligible for the refundable tax credit for "pre-competitive R&D".

Moreover, the ministère du Développement économique, de l'Innovation et de l'Exportation (MDEIE) must issue a certificate recognizing that R&D work will be done under an agreement that constitutes a partnership contract under a pre-competitive research contract for the purposes of this tax credit.[54]

In the same vein as the amendment mentioned above concerning the eligibility of a taxpayer for the purposes of the refundable tax credit for "pre-competitive R&D", the tax legislation will be amended so that, for the purposes of this tax credit, the other person or persons with whom a person or a partnership concludes a partnership contract to do R&D work in Québec, or to have such work done for them in Québec, must itself also be a person or partnership that carries on a business in Québec and has an establishment there.[55]

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[54] The tax credit for a catalyst project or an environmental technology innovation project was eliminated a number of years ago. This tax credit covered R&D work done under a catalyst project or an environmental technology innovation project covered by a Cabinet decision no later than December 31, 1996.

[55] For greater clarity, this change will not apply regarding another person with whom such a partnership contract is concluded, where such other person is a public research centre, a university entity or another similar organization that cooperates in carrying out the partnership contract and whose mission is not to carry on a business.

This change will apply to R&D expenditures incurred after the day of this Budget Speech for R&D work done after such day under an agreement that constitutes a partnership contract under a pre-competitive research project and regarding which the MDEIE issues a certificate after such day.

However, this change will not apply to R&D spending incurred after the day of this Budget Speech, regarding R&D work done after such day, under an agreement for which an application was filed with the MDEIE, before the day of this Budget Speech, to obtain recognition of this agreement as a partnership contract under a pre-competitive research project. To be considered, such application must be supported by the documentation the MEEIE needs to determine the eligibility of such agreement.

Moreover, this change will not apply to R&D spending incurred after the day of this Budget Speech, for R&D work done after such day, under an agreement regarding which Cabinet issued a decision, no later than December 31, 1996, recognizing that the R&D work covered by such agreement will be done under a catalyst project or an environmental technology innovation project.

For greater clarity, the R&D spending incurred after the day of this Budget Speech, for R&D work done after such day, under a research contract concluded after such day, is covered by the change bearing on the eligibility of the taxpayer mentioned above, even though such spending was incurred either under an agreement that constitutes a partnership contract under a pre-competitive research project and regarding which the MDEIE issued a certificate before the day of this Budget Speech, or under an agreement regarding which Cabinet issued a decision, no later than December 31, 1996, recognizing that the R&D work covered by such agreement will be done under a catalyst project or an environmental technology innovation project.

Accordingly, a taxpayer who carries on a business in Canada, outside Québec, and whose fiscal year begins after the day of this Budget Speech, will not be eligible for the purposes of the refundable tax credit for "pre-competitive R&D" in relation to R&D spending it incurs in Québec after the day of this Budget Speech, for R&D work done after such day, under a research contract concluded after such day, even though such expenditures are incurred under an agreement that constitutes a partnership contract under a pre-competitive research project and regarding which the MDEIE has already issued a certificate before the day of this Budget Speech.

❑ Recognition of eligible public research centres

As mentioned above, the refundable tax credit for "university R&D" applies to 80% of the amount of a research contract, where the R&D work relating to such research contract is sub-contracted to an eligible public research centre to which the person awarding such work is not related.

In this regard, it is the responsibility of the ministère des Finances du Québec (MFQ) to recognize research centres as eligible public research centres. The MFQ has already thus recognized many research centres, in particular with the broadening of the refundable tax credit for "university R&D" to research contracts concluded with this type of research centre in the May 2, 1991 Budget Speech – the Centre de recherche industrielle du Québec (CRIQ) and the Institut national d'optique (INO) were then recognized – and subsequently on an ad hoc basis, – as was the case, for instance, with the Réseau d'Informations Scientifiques du Québec (RISQ) Inc. and the Centre de recherche sur les biotechnologies marines (CRBM).

Although the eligibility criteria that the MFQ uses to recognize a public research centre for the purposes of this tax credit are widely known, they have never been made public.

To remedy this lack of public knowledge, these criteria are described below and will soon be available on the MFQ website. In the same vein, the procedure to follow for a research centre to obtain recognition is also described below and it will also be available soon on the MFQ website.

Moreover, to better monitor the recognition of an eligible public research centre, such a centre must henceforth file an annual return with the MFQ certifying that it continues to satisfy the eligibility criteria on which the MFQ relied to recognize it as an eligible public research centre.

- **Eligibility criteria**

To be recognized as an eligible public research centre for the purposes of the refundable tax credit for "university R&D", a research centre must demonstrate its capacity, in terms of human, material and financial resources, to carry out R&D work on behalf of businesses.

Accordingly, the employees must have the qualifications needed to carry out the R&D work sub-contracted to the research centre, and the research centre must have premises and equipment that enable it to carry out such work in its field of expertise.

Lastly, the research centre must obtain most of its financing from public funds.

- **Application for recognition**

There is no prescribed form for submitting an application for recognition of a research centre. All that needs to be done is send a written application to the MFQ containing the information that will enable it to determine whether the eligibility criteria are satisfied.

The information must cover the legal form of the research centre, its research staff, premises and equipment used in the course of R&D work and, lastly, the source of its financial resources.

This written application for recognition must be sent to:

Bureau du sous-ministre adjoint
Secteur du droit fiscal et de la fiscalité
Ministère des Finances
12, rue Saint-Louis, étage B
Québec (Québec) G1R 5L3

- **Annual return**

All the research centres that, since May 2, 1991, the MFQ has recognized as an eligible public research centre for the purposes of the refundable tax credit for "university R&D" must henceforth annually confirm with the MFQ that they satisfy the eligibility criteria listed above.

No form will be prescribed concerning this annual return. Like the application for recognition of a research centre, this annual return can be made in writing and sent to the MFQ at the address indicated above.

This annual return must cover a calendar year and must be filed no later than the last day of February following such calendar year.

Accordingly, no later than the last day of February 2006, all eligible public research centres recognized by the MFQ since May 2, 1991 must file this annual return for calendar year 2005.

Moreover, an eligible public research centre must advise the MFQ as soon as a change occurs, regarding human, material or financial resources, that could compromise its capacity to carry out R&D work on behalf of companies.

Failure by an eligible public research centre to comply with its obligation to file any of these returns could lead to the revocation of its recognition by the MFQ.

2.4.2 Adjustment to the refundable tax credit for design

The government has already recognized the design function in manufacturing as an important instrument that can contribute to enhancing the product line offered by Québec manufacturers.

More than ten years ago, the government introduced the refundable tax credit for design (design tax credit) to support and accelerate the innovation initiatives of Québec manufacturers.

More specifically, the objective of this tax credit is to help Québec manufacturers that make use of the design function to enable them to become more competitive on markets. It has two components and applies regarding certain expenditures incurred for eligible design activities in relation to the industrial sector and the fashion sector.

The first component of this tax credit concerns industrial design or fashion design activities carried out externally under an external consulting contract. The other component concerns design activities carried out in-house by designers employed by an eligible corporation, but solely for the fashion and furnishings sector.

The rate of this tax credit regarding these two components is 15%. The rate can be raised to up to 30% in the case of a corporation that qualifies as an SME.[56]

For the purposes of this tax credit, industrial design is a planning and design activity based on an economic, ergonomic and aesthetic analysis of structures, whose goal is to determine the formal qualities of products to be industrially produced, but does not include interior design, layout design, graphic design or engineering.

Fashion design is a creative activity that consists in determining the formal properties of clothing products to be industrially produced. Fashion design is an iterative process that establishes a relation between materials, colours, cut and function so as to satisfy physiological requirements, industrial constraints and market conditions.

Since the introduction of the design tax credit, Québec's economy has undergone substantial changes, in particular because of the expiry of the Multifibre Arrangement on January 1, 2005, resulting in a greater volume of imported textile products and clothing.

In the context of such opening of markets, Québec manufacturers must continue to bank on innovation, and particularly on the design function, to maintain a competitive advantage.

Consequently, the design tax credit will be adjusted to reflect the new reality of Québec's economy.

❑ Eligible corporation

Under existing tax legislation, an eligible corporation means a corporation that has an establishment in Québec and carries on an eligible business there. Such corporation must not be tax-exempt.

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[56] A corporation whose assets, including the assets of associated corporations calculated on a world basis, do not exceed $50 million for the preceding fiscal year.

Currently, a corporation that is a member of a partnership can benefit from the external component of the design tax credit, but not the in-house component of this tax credit.

In addition, the gross income of the business that is carried on by a corporation must be at least $150 000 for such corporation to be eligible for the in-house component of the design tax credit, while this condition is not applied for the external component of this tax credit.

In the context of this adjustment to the design tax credit, the conditions relating to the eligibility of a corporation that are stipulated by the tax legislation will be standardized for the purposes of the two components of the design tax credit.

More specifically, the tax legislation will be amended to provide that a corporation that is a member of an eligible partnership can benefit from the in-house component of the design tax credit provided all the other eligibility conditions are otherwise satisfied.

Accordingly, briefly, a corporation that is a member of a partnership regarding which the MDEIE has issued an eligibility certificate can receive the design tax credit on the basis of its share of the eligible expenditures incurred by the partnership in the latter's fiscal year ending in the taxation year of the corporation.

This amendment will apply to eligible expenditures incurred by an eligible partnership regarding a business it carries on and whose fiscal year ends after the day of this Budget Speech.

Furthermore, the tax legislation will be amended so that the gross income of the business carried on by a corporation or a partnership, as the case may be, must be at least $150 000, calculated on an annual basis, for the purposes of the external component of the design tax credit.

This amendment will apply to eligible expenditures incurred by an eligible corporation or by an eligible partnership, as the case may be, regarding a business it carries on and whose fiscal year begins after the day of this Budget Speech.[57]

For greater clarity, the other conditions relating to the eligibility of a corporation will remain unchanged.

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[57] In the interests of readability, subsequent references to an eligible corporation in this subsection include those to an eligible partnership, unless the context indicates otherwise.

To be eligible, a corporation must hold a certificate issued by the MDEIE certifying in particular that a design activity relating to a business that the corporation carries on in Québec was carried out by the corporation itself, or was carried out by an external consultant on behalf of the corporation.

Lastly, the terms and conditions of the eligibility certificate issued by the MDEIE will be changed to reflect the adjustment to the design tax credit.[58]

❑ Eligible expenditures

• In-house component

Under existing tax legislation, an eligible corporation may claim a design tax credit regarding the salary it pays to a designer it employs, solely for the fashion and furnishings sectors.

In this regard, for the purposes of the in-house component of the design tax credit, the salary of a designer is capped at $60 000, on an annual basis, and must be reduced by the amount of any government assistance and non-government assistance that the eligible corporation has received or is entitled to receive in this regard.

Concerning the fashion sector, this tax credit covers the salary of a single designer per product line. As for the furnishings sector, it covers the salary of a full-time designer who to a large extent carries out industrial design activities.

Under the adjustment to the design tax credit, the in-house component of this tax credit will be broadened to the entire industrial sector and the number of designers will no longer be limited.

In this regard, there is no need to amend the tax legislation because the in-house component of the design tax credit already covers the portion of the salary that an eligible corporation pays to an eligible designer it employs and that can be reasonably considered to relate to an eligible design activity carried out in Québec.

Rather, it is the changes made to the terms and conditions relating to the certification of a design activity and those relating to the certification of an eligible designer that will reflect the elimination of the limit on the number of designers and the broadening of the in-house component of the design tax credit to the entire industrial sector.[59]

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[58] These changes are described under the *Eligibility certificates* heading.

[59] These changes are described under the *Eligible activities* heading and the *New eligibility certificate for designers* sub-heading of the *Eligibility certificates* heading.

Moreover, concerning the fashion sector, the salary paid to an eligible patternmaker will henceforth be included in the base of the in-house component of the design tax credit.

Accordingly, the tax legislation will be changed so that the in-house component of the design tax credit covers the portion of salary that an eligible corporation pays to an eligible patternmaker it employs and that can be reasonably considered to relate to an eligible pattern drawing activity carried out in Québec. However, the salary of an eligible patternmaker will be capped at $40 000, on an annual basis, for the purposes of this component of the design tax credit.

This change will apply regarding a salary that a corporation incurs after the day of this Budget Speech, for work relating to an eligible pattern drawing activity done after such day by an eligible patternmaker employed by the corporation.[60]

For greater clarity, the other rules applicable to the in-house component of the design tax credit will remain unchanged, except for the necessary adaptations concerning the salary incurred regarding an eligible patternmaker.

- **External component**

Under existing tax legislation, an eligible corporation may claim a design tax credit for the portion of the amount of an external consulting contract that represents fees and royalties reasonably attributable to design activities done by the external consultant.

In this regard, a designer employed by the external consultant that does the design work for the corporation must not be a specified shareholder of the corporation, nor an employee or former employee of the corporation.[61]

In addition, the corporation and the external consultant must be at arm's length, which implies that only arm's length sub-contracting is currently allowed for the purposes of the external component of the design tax credit.

Under the adjustment to the design tax credit, the scope of the external component of this tax credit will be broadened to:

— eliminate the restriction preventing the external consultant from hiring an employee, former employee or specified shareholder of the corporation;

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[60] The definitions of the expressions "eligible patternmaker" and "eligible pattern drawing activity" are found respectively under the *New eligibility certificate for patternmakers* sub-heading of the *Eligibility certificates* heading and under the *Eligible activities* heading.

[61] The expression "specified shareholder" means a shareholder who holds at least 10% of the shares of any class of the capital stock of the corporation, and the expression "former employee" means a person who was employed by the corporation during the twelve months preceding the conclusion of the external consulting contract.

- allow a non-arm's length relation between the corporation and the external consultant;
- simplify the calculation details of the base of this component of the tax credit in the situation where the corporation is at arm's length with the external consultant.

• Employee, former employee and specified shareholder of the corporation

The restriction preventing an external consultant from hiring an employee, former employee or specified shareholder of the corporation is an integrity measure designed to counter situations in which a corporation could obtain tax assistance for its design activities that otherwise would be carried out in-house.

These restrictions are no longer needed in a context in which the in-house component of the design tax credit will henceforth be broadened to the entire industrial sector.

Accordingly, the tax legislation will be amended to eliminate the restrictions disqualifying an external consulting contract in situations where the person responsible for carrying out design activities with the external consultant is an employee of the corporation, a former employee or a specified shareholder of the corporation that concluded this external consulting contract.

This change will apply to an eligible expenditure incurred by an eligible corporation after the day of this Budget Speech regarding work for an eligible design activity or an eligible pattern drawing activity done after such day, under an external consulting contract concluded after such day.

• Corporation not at arm's length with the external consultant

Under existing tax legislation, where the corporation that concludes an external consulting contract is not at arm's length with the external consultant, it cannot claim the design tax credit.

However, this restriction is no longer needed in the context of the adjustment to the design tax credit.

Accordingly, in the situation where a corporation concludes an external consulting contract with an external consultant with whom it is not at arm's length, the tax legislation will be amended so that the external component of the design tax credit covers the portion of the amount of the external consulting contract that is attributable to the salaries that the external consultant pays to eligible designers or eligible patternmakers it employs, as the case may be, and that can be reasonably considered to relate to an eligible design activity or to an eligible pattern drawing activity carried out by the external consultant, in Québec, for the corporation.

In this regard, rules similar to those applicable to the salary a corporation pays to an eligible designer or to an eligible patternmaker it employs, as the case may be, for the purposes of the in-house component of the design tax credit, will apply for the determination of the amount of salary paid to an eligible designer or to an eligible patternmaker employed by the external consultant.

Accordingly, the salary paid to an eligible designer or to an eligible patternmaker will be capped at $60 000 or $40 000 respectively, on an annual basis, and must be reduced by the amount of any government assistance or non-government assistance that is reasonably attributable to such salary.

These changes will apply to an eligible expenditure incurred by an eligible corporation after the day of this Budget Speech, for work relating to an eligible design activity or an eligible pattern drawing activity done after that day, under an external consulting contract concluded after that day.

For greater clarity, the other rules applicable to the external component of the design tax credit will also apply to the situation in which the corporation and the external consultant are not at arm's length, with the necessary adaptations.

- **Corporation at arm's length with the external consultant**

As mentioned above, an eligible corporation can claim a design tax credit for the portion of the amount of an external consulting contract representing fees and royalties reasonably attributable to design activities done by the external consultant.

To bring the base of the external component of the design tax credit, in a situation where the corporation is at arm's length with the external consultant, to a comparable basis with the base of this tax credit in the situation where a corporation is not at arm's length with the external consultant, and to simplify the calculation details of this tax credit in this context, the tax legislation will be amended so that the base of the external component of the design tax credit, in the situation where the corporation is at arm's length from the external consultant, henceforth covers the percentage of the external consulting contract that generally represents the remuneration paid to an eligible designer or an eligible patternmaker employed by the external consultant.

In the situation where a corporation concludes an external consulting contract with an external consultant with whom it is at arm's length, the tax legislation will be amended so that the external component of the design tax credit covers 65% of the portion of the amount of the external consulting contract that is reasonably attributable to an eligible design activity or an eligible pattern drawing activity carried out in Québec by the external consultant himself, for the corporation.

These changes will apply to an eligible expenditure incurred by an eligible corporation after the day of this Budget Speech for work relating to an eligible design activity or an eligible pattern drawing activity done after that day, under an external consulting contract concluded after that day.

For greater clarity, the tax legislation will remain unchanged with respect to the other rules applicable to the external component of the design tax credit, though with the necessary adaptations so that they reflect these amendments as well as that relating to an eligible patternmaker.

❑ Rate of the tax credit

The tax legislation will remain unchanged with respect to the rules applicable to the rate of the design tax credit. Accordingly, the rate of this tax credit regarding the two components will remain at 15%, with the possibility of being raised to 30% in the case of a corporation that qualifies as an SME.

❑ Eligible activities

The existing definition of what constitutes an eligible design activity will remain unchanged and will continue to apply under the adjustment to the design tax credit, with the necessary changes so that the definition of industrial design henceforth applies to the in-house component of this tax credit.

Concerning an eligible pattern drawing activity, it means the drawing of a pattern that gives practical effect in the form of a pattern to the ideas of the fashion designer. It also includes geometric and technical drawings, the cutting of pieces of the pattern to enable the cutting of the first sample and the differentiation of fabrics.

Furthermore, the tax legislation will be amended to allow Revenu Québec to verify with the MDEIE whether a specific activity qualifies as an eligible design activity or an eligible pattern drawing activity.

This amendment will apply as of the day following the day of this Budget Speech.

❑ Eligibility certificates

Currently, regarding the in-house component of the design tax credit, the eligibility certificate that the MDEIE issues to a corporation certifies that the corporation carries on in-house design activities during a taxation year.

To be eligible, a corporation must carry on a business in an eligible fashion or furnishings sector, and a portion of its sales must stem from manufacturing-type activities carried out in Québec. Furthermore, for the fashion sector, the design activity must bring value-added calculated on the basis of the corporation's net sales.

In addition, on the certificate, the MDEIE gives its view on the qualification and the nature of the activities performed by an eligible designer employed by the eligible corporation.

In this regard, for the fashion sector, a single designer per product line can be recognized, while for the furnishings sector, MDEIE recognition applies to a full-time designer who to a large extent carries out industrial design activities.

In addition, in this certificate the MDEIE specifies the names of all the eligible designers regarding whom the eligible corporation can claim a design tax credit.

Moreover, the external component of the design tax credit, the MDEIE currently issues an eligibility certificate that certifies the qualifications of the external consultant. The MDEIE also issues another certificate to the effect that eligible design activities were carried out on its behalf by an external consultant recognized by the MDEIE.

In this regard, to be eligible, the corporation must in particular undertake to produce in Québec goods stemming from this design activity.

The MDEIE also specifies in this certificate the names of all the eligible designers employed by the external consultant regarding whom it considers that the eligible corporation can claim a design tax credit.

Moreover, Revenu Québec has a mandate concurrent with that of the MDEIE with respect to the qualification of the nature of the activities carried out by eligible designers for whom an eligible corporation may claim a design tax credit, since in particular it has a mandate to verify the portion of the remuneration paid to an eligible designer that is reasonably attributable to eligible design activities.

In this context, to simplify the existing process for issuing eligibility certificates under the adjustment to this tax credit, and to ensure that the interventions of the MDEIE complement those of Revenu Québec, changes will be made to the eligibility criteria of a corporation that fall under the jurisdiction of the MDEIE as well as to that ministry's mandate.

- **New eligibility criterion based on production in Québec**

The existing eligibility criteria of a corporation for the in-house component or the external component of the design tax credit that are based on the value-added calculated on the basis of the corporation's net sales and on an undertaking to make in Québec goods stemming from the design activity, will be replaced with a criterion based on production in Québec.

More specifically, to be eligible for the in-house component or the external component of the design tax credit concerning the fashion sector, a corporation must show that 20% of its total production, for the preceding fiscal year or, if the corporation is in its first fiscal year, at the end of such year, is attributable to goods that the corporation made itself, in Québec, which goods stem from an eligible design activity for the purposes of the design tax credit.

However, this eligibility criterion based on production in Québec will not apply to the footwear sector, because of that sector's particular features.

For greater clarity, the current eligibility criterion based on the value-added calculated on the basis of the corporation's net sales will no longer apply to the footwear sector.

Concerning the industrial sector, the percentage of production in Québec will be set at 50% and this percentage will be applied in the same way as in the fashion sector. However, in view of the fact that the companies in this industrial sector are less homogeneous than those in the fashion sector, the MDEIE may certify the eligibility of a corporation for the design tax credit where the percentage of production in Québec of such corporation is less than 50%, in the situation where the MDEIE is of the view that the design activity relating to a business carried on by such corporation is of particular interest for Québec.

This change will apply to eligibility certificates issued by the MDEIE after the day of this Budget Speech.

For greater clarity, concerning a taxation year of an eligible corporation that includes the day of this Budget Speech and for which such corporation files a certification application before that day, the MDEIE may issue an eligibility certificate for such corporation on the basis of the current eligibility criteria for a corporation.

• New eligibility criterion concerning an in-house design activity

Henceforth, the MDEIE will issue to a designer or patternmaker, as the case may be, a certificate attesting to the latter's skills for the purposes of the design tax credit, according to the terms and conditions described under the *New eligibility certificate for designers* and *New eligibility certificate for patternmakers* sub-headings.

Moreover, the MDEIE will continue to issue a certificate to the effect that design activities that are included in the fashion sector and in the entire industrial sector are carried out in-house in relation to a business that is carried on by an eligible corporation.

In this regard, the MDEIE will certify that these activities are eligible according to the same criteria as those it currently uses, with the necessary adaptations to reflect the broadening of the in-house component of the design tax credit to the entire industrial sector and to reflect the broadening of this component of the tax credit to an eligible pattern drawing activity.

However, this certificate issued by the MDEIE will no longer certify the nature nor the percentage of the duties of eligible designers and eligible patternmakers employed by the corporation.

Nonetheless, the MDEIE may indicate in an appendix to this certificate and for information purposes only, the names of the eligible designers and the eligible patternmakers that, according to a return filed by the corporation to that effect, have done an eligible design activity or an eligible pattern drawing activity, as the case may be, in its taxation year, and the percentage of the duties of each of these designers or patternmakers devoted to an eligible design activity or an eligible pattern drawing activity respectively.

To obtain this eligibility certificate, an eligible corporation must send an application to the MDEIE within a reasonable time after the end of the taxation year in which it incurs the salaries regarding work relating to an eligible design activity or an eligible pattern drawing activity carried out by an eligible designer or an eligible patternmaker it employs.

To receive the design tax credit for a taxation year, an eligible corporation must enclose this eligibility certificate with its tax return for such taxation year.

These changes will apply to an eligibility certificate issued by the MDEIE after the day of this Budget Speech.

- **New eligibility certificate concerning an external design activity**

  - **Corporation not at arm's length with the external consultant**

Concerning the situation where an eligible corporation is not at arm's length with the external consultant to whom it awards work relating to an eligible design activity or an eligible pattern drawing activity, the MDEIE will issue an eligibility certificate certifying the skills of the external consultant. The terms and conditions relating to the issuing of this certificate are described under the *New eligibility certificate for an external consultant* sub-heading below.

In addition, the MDEIE will issue a certificate certifying that eligible design activities are carried out by an external consultant, who is recognized by the MDEIE, under an external consulting contract relating to a business carried on by an eligible corporation.

This certificate will certify neither the nature nor the percentage of the duties of the eligible designers and the eligible patternmakers employed by the external consultant.

However, like the certificate issued by the MDEIE in relation to the in-house component of the design tax credit, the MDEIE may indicate in an appendix to such certificate, for information purposes only, the names of the eligible designers and the eligible patternmakers employed by the external consultant that, according to a return filed by the external consultant to that effect, have performed an eligible design activity or an eligible pattern drawing activity, as the case may be, under the external consulting contract, and the percentage of the duties of each of these designers or patternmakers devoted to such design activities or such pattern drawing activities respectively.

In this regard, to obtain this eligibility certificate, an eligible corporation must send an application to the MDEIE within a reasonable time after the end of the taxation year in which it incurs an eligible expenditure relating to an external consulting contract it concluded in such year or in a prior year, and in which work relating to an eligible design activity or an eligible pattern drawing activity was carried out.

To receive the design tax credit for a taxation year, an eligible corporation must enclose this eligibility certificate with its tax return for such taxation year.

These changes will apply regarding an external consulting contract concluded after the day of this Budget Speech.

- **Corporation at arm's length with the external consultant**

In a situation where an eligible corporation is at arm's length with the external consultant to whom it awards work relating to an eligible design activity or an eligible pattern drawing activity, the MDEIE will continue to issue an eligibility certificate certifying the skills of the external consultant, according to the terms and conditions described under the *New eligibility certificate for an external consultant* sub-heading.

In addition, the MDEIE henceforth will issue a certificate to the effect that eligible design activities were carried out by an external consultant, who is recognized by the MDEIE, under an external consulting contract relating to a business that is carried on by an eligible corporation.

This certificate will certify neither the nature nor the percentage of the duties of the eligible designers and the eligible patternmakers employed by the external consultant.

Accordingly, the MDEIE will not indicate in such certificate or in an appendix thereto, the names of the eligible designers and eligible patternmakers employed by the external consultant that, according to a return filed by the external consultant to that effect, have performed an eligible design activity or an eligible pattern drawing activity under the external consulting contract.

In this regard, to obtain this eligibility certificate, an eligible corporation must send an application to the MDEIE within a reasonable time after the end of a taxation year in which it incurs an eligible expenditure in relation to an external consulting contract it concluded in such year or in a prior year, and in which work regarding an eligible design activity or an eligible pattern drawing activity relating to such contract was carried out.

To receive the design tax credit for a taxation year, an eligible corporation must enclose such eligibility certificate with its tax return for such taxation year.

These changes will apply regarding an external consulting contract concluded after the day of this Budget Speech.

For greater clarity, concerning an external consulting contract concluded no later than the day of this Budget Speech, the eligibility criteria administered by the MDEIE currently in effect will remain unchanged.

- **New eligibility certificate for designers**

As mentioned above, in the context of the adjustment to the design tax credit, the MDEIE will no longer certify the nature or the percentage of the duties of the eligible designers employed by an eligible corporation in the course of issuing an eligibility certificate certifying that the design activities are carried out in-house by such corporation.

Accordingly, a new procedure for certifying designers will be implemented. More specifically, the MDEIE will continue to certify the skills of designers according to the same criteria as those it currently uses.

However, this eligibility certificate will be issued once, not annually, and personally to the designer concerned. In this regard, the designer may apply for such certificate at any time.

Moreover, concerning a certificate issued by the MDEIE in relation to an eligible designer for the industrial sector, other than furnishings, such certificate become effective on a date that may not be prior to the day following the day of this Budget Speech.

An eligible corporation must enclose a copy of such certificate with its tax return, for a taxation year, in relation to the salary it incurs regarding an eligible designer it employs who performed, in such year, eligible design activities concerning the business it carries on.

In this context, a designer must submit a certification application to the MDEIE within a reasonable time enabling the latter to issue the certificate in a timely manner so that the corporation can enclose a copy of it with its tax return.

For greater clarity, concerning a taxation year of an eligible corporation that includes the day of this Budget Speech, and for which such corporation submits no certification application other than the one it submitted to the MDEIE before that day according to the procedure currently stipulated, an eligible designer employed by the corporation who performed eligible design activities concerning the business that the corporation carried on in such year must nonetheless obtain a certificate certifying his skills.

However, in this regard, the designer will not have to submit a certification application to the MDEIE, and the latter may issue to the corporation a certificate certifying the skills of the designer on the basis of the information contained in the application submitted by the corporation, unless the MDEIE requests additional information on this subject.

Moreover, subsequently, a designer covered by the above exception must personally obtain from the MDEIE a certificate certifying his skills.

- **New eligibility certificate for patternmakers**

For the purposes of the design tax credit, an eligible patternmaker means a person who holds a vocational studies diploma (secondary level) issued by an institution recognized by the ministère de l'Éducation, du Loisir et du Sport to offer the pattern drawing program.

Furthermore, an eligible patternmaker mens a person who, if he does not hold such a diploma, has experience considered equivalent by the MDEIE.

Like the eligibility certificate issued by the MDEIE in relation to a designer, the MDEIE will issue an eligibility certificate to a patternmaker only once and personally. In this regard, the patternmaker may apply for this certificate at any time.

An eligible corporation must enclose a copy of this certificate with its tax return, for a taxation year, for the salary it incurred regarding an eligible patternmaker it employs who performed, in such year, work relating to an eligible pattern drawing activity concerning the business it carries on.

In this context, a patternmaker must submit its certification application to the MDEIE within a reasonable time enabling the latter to issue the certificate in a timely manner so that the corporation can enclose a copy of it with its tax return.

- **New eligibility certificate for an external consultant**

The MDEIE will continue to issue an eligibility certificate in relation to an external consultant, according to the same criteria as those it currently uses.

However, changes will be made to these eligibility criteria so as to reflect the broadening of the design tax credit to non-arm's length situations between the external consultant and the corporation that awards work relating to an eligible design activity or an eligible pattern drawing activity to it on a sub-contracting basis.

Moreover, to reflect the new certification procedure for eligible designers and eligible patternmakers described above under the *New eligibility certificate for designers* and the *New eligibility certificate for patternmakers* sub-headings, the employees of an external consultant, or the external consultant himself if he himself provides design or pattern drawing services under an external consulting contract, must personally hold an eligibility certificate as an eligible designer or eligible patternmaker, as the case may be.

An eligible corporation must enclose a copy of such certificate with its tax return, for a taxation year in relation to an eligible expenditure it incurred, in such year, regarding an external consultant with whom it concluded an external consulting contract concerning the business it carries on.

2.4.3 Refundable tax credit for technology adaptation services

The refundable tax credit for technology adaptation services was introduced to further support companies in their efforts to cooperate in research and innovation.

Briefly, the tax credit an eligible corporation may claim, for a taxation year, is calculated by multiplying by 50% the amount of eligible expenditures incurred by the eligible corporation, during such year, with an eligible liaison and transfer centre or an eligible college technology transfer centre, as the case may be.

The Taxation Regulations will be amended to recognize three new college centres for technology transfer as eligible college centres for technology transfer for the purposes of the refundable tax credit for technology adaptation services.

The centres are:

— the Centre collégial de transfert de technologie sur la forêt boréale;

— the Centre technologique des résidus industriels (CTRI);

— the Service d'innovation et de transfert technologiques pour l'entreprise (SITTE).

This recognition will apply to eligible expenditures incurred by an eligible corporation either after July 21, 2004 with the Centre collégial de transfert de technologie sur la forêt boréale, or after August 23, 2004 with the Centre technologique des résidus industriels (CTRI), or after December 1, 2004 with the Service d'innovation et de transfert technologiques pour l'entreprise (SITTE), in relation to products or services offered by these centres after these dates.

2.5 Introduction of the SME Growth Stock Plan

The government announced, in the June 12, 2003 Budget Speech, that it would examine the relevance of the stock savings plan (SSP) in its current form and that, during this examination, a moratorium would apply to this plan. Over the last two years, the ministère des Finances has studied this plan and has received representations from interested parties.

The SSP, introduced in 1979, is a capitalization assistance plan that, in general, enables an individual who resides in Québec to deduct, in calculating his taxable income, the cost of treasury shares he acquired from issuing corporations qualifying for the plan. In practice, the deduction allowed an investor reduces the acquisition cost of his shares and, consequently, his financial risk.

Conceptually, one of the major results expected from such a plan is a reduction in the cost of invested capital for Québec public companies that use it. Since the tax assistance reduces the cost of its shares for the investor, it is reasonable to expect that an issuing corporation can obtain a better price for its shares.

It appears that this major expected result, namely the reduction in the cost of invested capital for Québec public companies, has not been as significant as forecast. In this regard, it appears that the objective of the SSP has not been fully achieved.

Moreover, it also appears that the SSP has contributed to encouraging investors to direct a portion of their investments to a category of corporations whose size is normally not large enough to attract the attention of major financial market participants, namely institutional investors. Accordingly, the SSP has helped channel capital to a segment of the market where supply is insufficient.

In other words, while the SSP has not fully achieved all the expected results, it has nonetheless been useful in supporting the supply of capital in the small-size corporations market segment.

In a different vein, an analysis of the needs of small businesses reveals specific financing problems in certain sectors, such as biotechnology, featuring in particular a considerable need for short-term capital and a generally long-term profit outlook.

There is every reason to believe that a capitalization assistance measure, designed in particular to direct investors to the segment of the market in which these businesses operate, would help satisfy the financing needs of these corporations that, frequently, operate in promising sectors but in which achieving the profitability stage does not appear to correspond to investors' expectations.

Consequently, to foster the growth of Québec companies and in view of the specific financing needs of certain sectors and the observations that resulted from the examination of the SSP, it seems desirable to revive this plan, but with significant changes that, among other things, will help ensure that the capital injection it generates will be more specifically directed to a segment of the market that generally attracts less investor attention.

Furthermore, to avoid adding more complexity to the tax legislation and to clearly mark the change in direction of this plan, the existing SSP (former SSP) will be terminated and a new SSP, to be called the "SME Growth Stock Plan" (new plan) will be introduced. However, the new plan will have a limited span, and will end on December 31, 2009.

At the conceptual level, the rules of the new plan essentially will incorporate the application details of the former SSP, change some of its basic features and ignore the components that no longer correspond to current needs.

More specifically, to ensure that investments are directed to the desired market segment, the SME Growth Stock Plan will be geared to corporations of smaller size than the former SSP, i.e. corporations with assets under $100 million compared with $350 million under the former SSP. In addition, to simplify administration of this plan, the SME Growth Stock Plan will be limited to the common shares of an eligible issuing corporation and will not be open to eligible convertible shares and share subscription rights. In the same vein, a single deduction rate, i.e. 100% of the adjusted cost of eligible shares, will apply.

Furthermore, to ensure that the capital invested in the desired market segment remains invested in this market segment throughout the life of the plan, and not just on a short-term basis at yearend, the SME Growth Stock Plan will impose an obligation of almost permanent coverage of eligible shares. Similarly, to increase the effects of this measure, the minimum holding period will be increased from two to three years.

To encourage access to financial markets for all small corporations, the requirement concerning a minimum of $2 million in assets that applied to growth corporations under the former SSP will be eliminated, and the business continuation rules will be eased regarding a qualifying transaction carried out under the Capital Pool Company program of the TSX Venture Exchange.

Moreover, to ensure more effective monitoring, the requirement to obtain an advance ruling from Revenu Québec will be extended to almost all public offerings eligible for the SME Growth Stock Plan. In addition, to foster the efficiency of the tax assistance, the rules relating to the use of the proceeds of the offering will be tightened.

Lastly, some components of the former SSP will be left out of the new plan because they do not correspond to current needs, or because the benefits they would add are insufficient in relation to the technical complexity they would impose. In particular, such is the case for the component of the former SSP concerning investment groups and the one concerning shareholder plans.

❑ Termination of the former stock savings plan

As mentioned above, the former SSP will not be revived and will be wound down gradually. Accordingly, no investment in securities or any public offering of shares, securities, or convertible securities will henceforth be recognized under this plan.

Moreover, any conversion right or subscription right, as well as any right arising from stock option plan or a shareholder plan, whose exercise by the holder still gives rise to a deduction under the former SSP, must be exercised no later than December 31, 2005 to give rise to a deduction under this plan.

Lastly, for greater clarity, the termination of the former SSP in no way discharges an investor who benefited from the former SSP after December 31, 2002 and before December 31, 2006 from his obligations under such plan, in particular regarding the compulsory holding period of securities.

❑ Introduction of the SME Growth Stock Plan

The SME Growth Stock Plan will consist of an arrangement concluded between an individual, other than a trust, and a broker, under the terms of which the individual will entrust such broker with the custody of his eligible shares, eligible securities and valid shares, that will not be included in any other plan.

The SME Growth Stock Plan will also consist of an arrangement concluded between an individual, other than a trust, and an investment fund, under the terms of which the individual will entrust such investment fund with the custody of his eligible securities issued by the investment fund, that will not be included in any other plan.

❑ Eligible share, eligible security and valid share

• Eligible share

For the purposes of the new plan, an eligible share means a common share with an unrestricted voting right that satisfies the conditions formerly applicable to a qualifying share under the former SSP.[62] Accordingly, in particular, an eligible share must have been covered by a favourable advance ruling by Revenu Québec in relation to compliance with the objectives of the plan, be acquired for money in the course of a public share offering and be non-redeemable and with no fixed dividend.

In addition, the rules of the former SSP stipulating that an advance ruling regarding a share placed by means of a simplified prospectus will not be included in the new plan.

Moreover, the rules of the former SSP stipulating an exemption from an advance ruling concerning a share acquired by an investment fund, in the course of a placement covered by a prospectus exemption stipulated in section 51 of the *Securities Act*, will be maintained, though with certain changes.

First, the rules of the new plan will stipulate that the issued share must be acquired for money by an investment fund.

In addition, an eligible issuing corporation that carries out such an offering of its shares for the first time under the new plan must obtain an advance ruling from Revenu Québec to the effect that it is an eligible issuing corporation and that the share issued in this offering is an eligible share. However, an eligible issuing corporation that previously carried out a public offering of shares under the new plan other than by means of a prospectus exemption stipulated in section 51 of the *Securities Act*, will not be subject to this requirement.

Furthermore, an eligible issuing corporation that carries out such an offering of its shares under the new plan will have to provide Revenu Québec, no later than the tenth day following that of the placement, with a copy of the notice stipulated in section 46 of the *Securities Act*.

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[62] *Taxation Act*, section 965.9.1.0.0.1.

Moreover, except where it carries out such an offering of its shares for the first time under the new plan, an eligible issuing corporation must enclose with this notice, a certification by one of its directors to the effect that it is an eligible issuing corporation and that the share issued to the investment fund in the course of a placement covered by a prospectus exemption stipulated in section 51 of the *Securities Act* is an eligible share.

The rules of the former SSP stipulated that a share could not be recognized as a qualifying share if it was acquired in the course of an offering the stipulated use of whose proceeds was the acquisition of shares or negotiable securities of another corporation. However, exceptions were stipulated regarding the acquisition of a controlled subsidiary.

In general, similar rules to restrict the use of offering proceeds will also apply under the new plan, with the necessary adaptations.

In addition, a share may not be recognized as an eligible share when the use, announced in the final prospectus, of the proceeds of the offering in the course of which it is acquired, relates to activities to be carried out outside Québec and, in the view of Revenu Québec, such activities could have a tangible negative impact on the level of employment or the level of economic activity of the eligible issuing corporation, or its subsidiaries, in Québec.

- **Eligible security**

Briefly, the rules of the former SSP stipulated that a security issued by an investment fund whose prospectus, or prospectus exemption application, as the case may be, stipulated that it could be covered by the SSP, that was covered by an advance ruling by Revenu Québec and was acquired for money by a first acquirer, was a qualifying security for the SSP.

Like the rules applicable under the former SSP in this regard, a security issued under the new plan by an investment fund and satisfying the same conditions as those of the former SSP, will also be eligible for the new plan, with the necessary adaptations.

- **Valid share**

According to the rules of the former SSP, an SSP investor could purchase a share on the secondary market to replace a qualifying share or security he disposed of. This operation was generally known as a “covering” operation and the replacement share that could be acquired to that end was called a “valid share”.

Briefly, a valid share was a share included on a list drawn up to that effect by the Autorité des marchés financiers (AMF) and acquired in a stock transaction carried out on a stock exchange in Canada.

The AMF list was published periodically and was also available on its website. Essentially, this list included the names of qualifying issuing corporations that had carried out an SSP offering during a period of no more than four years beginning the day when the receipt for the final prospectus or the prospectus exemption relating to the offering was granted, and ending either on the fourth December 31 following such day or the third December 31 following such day if such day was a December 31, or on the date of a new public offering of shares if, at that time, the issuing corporation no longer satisfied the criteria for qualifying as a qualified issuing corporation.

For the purposes of the new plan, the rules relating to a covering operation on the secondary market and the rules relating to the AMF list will also apply, with the necessary adaptations.

More specifically, the new AMF list will be extended to also include the name of a corporation that is not an eligible issuing corporation that carried out an offering of eligible shares, but could be such a corporation if it so applied and if a class of shares of its capital stock satisfies the definition of eligible shares.

A corporation that wishes to obtain such designation of eligibility for the AMF list must obtain an advance ruling from Revenu Québec according to which, first, its capital stock includes a class of shares listed on a stock exchange in Canada that satisfies the definition of eligible share, excluding the requirement relating to the reference to the SME Growth Stock Plan in the final prospectus and that relating to obtaining a prior advance ruling from Revenu Québec and, second, at the time of the application, the corporation satisfies the various requirements of the definition of eligible issuing corporation.

A corporation that obtains such designation of eligibility for the AMF list may remain on this list according to the same rules as apply to other corporations so included, the date of the advance ruling taking the place of the date on which the receipt of the final prospectus or prospectus exemption is obtained for determining the date as of which the period of inclusion on the list begins to run.

Moreover, for greater clarity, a share of an eligible issuing corporation that carries out a public offering of shares in accordance with the rules of the new plan in relation to the share acquired by an investment fund, in the course of a placement covered by a prospectus exemption stipulated in section 51 of the *Securities Act* will also constitute a valid share. Accordingly, such an eligible issuing corporation may also apply for its shares to be included on the AMF list, such inclusion then being subject to the usual rules applicable in such circumstances.

Lastly, the current AMF list relating to the former SSP will remain in effect for valid shares relating to the former SSP. However, no other security may be added and the securities on such list will not constitute valid shares for the purposes of the new plan.

- **Clarification concerning the ineligibility of a convertible security**

Unlike the former SSP, the SME Growth Stock Plan will not be open to securities other than an eligible share, an eligible security and, for coverage purposes only, a valid share. Accordingly, for the purposes of the new plan, the concept of eligible convertible security, i.e., in general, a debenture or non-guaranteed preferred share that its holder may convert into a common voting share will not be carried over to the new plan.

Given, on the one hand, that the plan is set up for a period of roughly five years and, on the other, that the measure is designed in particular to encourage investors to be present on the market at all times, the eligibility of convertible securities was not considered useful. In addition, the ineligibility of these securities will make it possible to substantially simplify the legislation and the administration of the plan, and improve monitoring of the plan.

☐ Public offering of shares

For the purposes of the new plan, a public offering of shares means the placement of a share in accordance with a final prospectus receipt or, when the rules of the new plan relating to an investment fund apply, in accordance with a prospectus exemption stipulated in section 51 of the *Securities Act*, obtained from the AMF after the day of this Budget Speech.

Furthermore, an application for a prospectus receipt from the AMF in relation to a public offering of shares or securities, as the case may be, must be filed with it no later than December 31, 2009. If necessary, where the rules of the new plan regarding an investment fund apply, the placement made in accordance with a prospectus exemption stipulated under section 51 of the *Securities Act* must be made no later than December 31, 2009.

Unlike what was stipulated under the former SSP, the placements covered by the prospectus exemptions stipulated by sections 52 and 263 of the *Securities Act* will not be included in the new plan.

Like the eligible convertible securities mentioned above, many placements covered by these exemption regimes do not fit well with a tax assistance measure set up for a temporary period, share subscription plans for instance. In addition, the elimination of these types of placement will allow for better monitoring of the new plan, while acknowledging the fact that most of these types of placements already include privileges, in particular that of acquiring shares at a price that is usually below the market price.

Moreover, Québec's securities legislation is currently being revised. This revision could lead to significant changes to various aspects of the securities legislation, in particular the various prospectus exemption regimes.

❑ Eligible issuing corporation

For the purposes of the SME Growth Stock Plan, a corporation that makes a public offering of shares will be an eligible issuing corporation if, on the date of the receipt of the final prospectus issued by the AMF or, as the case may be, the date of the prospectus exemption:

— it is a Canadian corporation whose assets are less than $100 million (asset criterion);

— its senior management is in Québec and more than half of the salaries paid to its employees during its last taxation year ended before such date were paid to employees of an establishment located in Québec (Québec attachment criterion);[63]

— throughout the preceding twelve months, it carried on a business and had at least five full-time employees that are not insiders, for the purposes of the *Securities Act*, or persons related to them (five employees / twelve months criterion);[64]

— no more than 50% of the value of its property consists of investments, other than eligible investments (50% of the value of property criterion).[65]

• Clarifications concerning the asset criterion

Briefly, the assets referred to above are those shown in the financial statements of the eligible issuing corporation for the taxation year preceding the one during which the eligible issuing corporation makes a public offering of shares under the new plan, and include the assets of any other corporation with which the eligible issuing corporation is associated, on a world basis, at any time during the twelve months preceding the time of the offering.

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[63] According to the rules of the former SSP, the requirement regarding the location of senior management and that regarding the relative size of payroll in Québec were alternative in nature, while for the purposes of the new plan a corporation must satisfy both requirements.

[64] The reference to carrying on a "qualifying business" previously included in the definition of a growth corporation has been dropped. Moreover, the business operation criterion was added for all corporations and, like the five employees / twelve months rule, the business must have been carried on throughout the 12 months preceding the date of the receipt of the final prospectus or prospectus exemption, as the case may be. Under the former SSP, the former criterion of carrying on a "qualifying business" was a specific test on the date of the receipt of the final prospectus or prospectus exemption.

[65] The current legislation lists various types of investments affected by this rule and describes those that are excluded. This set of rules will also apply under the new plan. A clarification to that effect is provided below.

In this regard, the rules relating to the assets criterion applicable in the former SSP will, in general, also apply under the new plan, with the necessary adaptations.

More particularly, the rules regarding associated corporations and corporations resulting from mergers, as well as the rules regarding financial statements, calculation details and the terms and conditions relating to inappropriate operations, will also apply under the new plan.

- **Clarification concerning the Québec attachment criterion**

For the purposes of the Québec attachment criterion, a special rule will be introduced regarding a corporation that, in the 365 days preceding the date of the receipt of the final prospectus or prospectus exemption, changes its usual fiscal year. Under this clarification, the reference to its last taxation year ended on such date is replaced with a reference to each of its taxation years ended in the 365 days preceding the date of the receipt of the final prospectus or prospectus exemption.

- **Clarifications concerning the five employees / twelve months criterion**

Briefly, the five employees / twelve months criterion is designed to ensure that an eligible issuing corporation is a corporation that has a minimum commercial history, thus demonstrating a degree of stability and giving some expectation of a degree of longevity.

In this regard, the former SSP stipulated various rules allowing an eligible issuing corporation to satisfy this requirement, indirectly in particular. In general, these rules will also apply under the new plan, with the necessary adaptations.

More particularly, the rules concerning mergers and winding-ups, those on successive mergers and winding-ups as well as those on the use of sub-contractors[66] and business continuation will also apply under the new plan.

- **Clarifications concerning the 50% of the value of property criterion**

Essentially, the 50% of the value of property criterion is designed to exclude holding companies to ensure that the plan benefits only active commercial corporations.

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[66] The rules on the use of sub-contractors are designed essentially to cover mining companies that, usually, have no employees – other than directors – and use the proceeds of their offerings to award prospecting contracts to sub-contractors.

Briefly, the value of the property of an issuing corporation is determined on the basis of its last financial statements. However, the rules of the former SSP stipulated exceptions to this principle in certain circumstances, in particular for a change in fiscal year or for the first fiscal year. Furthermore, these rules stipulated certain adjustments regarding eligible investments, and in the event of major changes to the composition of the corporation's assets since publication of its last financial statements. Lastly, streamlining measures were also taken to take into account the issuing corporation's scientific research and experimental development activities.

Generally speaking, the rules applicable in this regard under the former SSP will also apply under the new plan, with the necessary adaptations.

Moreover, an additional power will be granted to Revenu Québec to assess this criterion. Essentially, when it considers an issuing corporation's compliance with this criterion, Revenu Québec may require from the issuing corporation any document it considers necessary for its analysis, in particular non-consolidated financial statements.

- **Clarifications concerning the purchase and buy-back ban**

Briefly, the rules applicable under the former SSP stipulated that an issuing corporation that would otherwise have been eligible for the plan might not have been recognized as an eligible issuing corporation if, during the five years preceding the issue under the SSP, it had carried out, directly or indirectly, in any way whatsoever, a purchase or buy-back of shares of its capital stock, or any other operation or series of operations equivalent to such purchase or buy-back.

However, these rules allowed such an issuing corporation to put its situation in order by making an offering outside the SSP for an amount not less than the amount of the prior purchase or buy-back. Furthermore, Revenu Québec had a discretionary power to authorise an issuing corporation to bypass certain requirements relating to the buy-back ban in the event that the result is an undesirable situation.

Moreover, exceptions were also stipulated regarding certain operations or certain securities. Furthermore, in some circumstances, an eligible issuing corporation could undertake, without penalty, to purchase or buy back its securities in an amount not exceeding 5% or, if applicable, 10% of its paid-up capital.

In general, the restrictions and exceptions relating to purchase and buy-back that applied under the former SSP will also apply under the new plan, with the necessary adaptations.

- **Eligible holding company**

According to the rules of the former SSP, certain holding companies could be recognized as a qualified corporation.

Briefly, a Canadian corporation whose head office or principal place of business was located in Québec and that made a public offering of shares was also a qualified issuing corporation if, on the date of the receipt of the final prospectus or prospectus exemption, almost all of its property consisted of shares of the capital stock of one or more subsidiaries it controlled or of loans or advances made to such subsidiaries, and if one of these subsidiaries satisfied each of the requirements mentioned above regarding a qualified issuing corporation.

In general, the rules applicable under the former SSP concerning the recognition of certain holding companies as a qualified corporation will also apply under the new plan, with the necessary adaptations.

- **Designated eligible issuing corporation**

The Capital Pool Company (CPC) program was introduced by the TSX Venture Exchange. Essentially, a CPC is a shell company authorized to make a public offering of shares for a limited amount, and list these shares on the TSX Venture Exchange. Once it is listed, and for up to 18 months, the activities of a CPC consist in identifying a business opportunity that, if it is authorized, will enable it to carry out a "qualifying transaction", the second step of the program.

Briefly, a qualifying transaction is a transaction by which a CPC acquires significant assets, other than cash, following the conclusion of a purchase, consolidation, merger or arrangement with another company, or following another type of transactions.

Consequently, the second step of the program essentially consists in carrying out an acquisition transaction leading to the creation of a new business or the continuation of an existing business. When the purpose of the qualifying transaction is the continuation of an existing business, and moreover requires financing by means of a public offering of shares, the rules relating to business continuation currently stipulated in the new plan[67] may not apply because of the commercial business structure needed for the financing package relating to a qualifying transaction.

Accordingly, to facilitate the financing of such a qualifying transaction under the SME Growth Stock Plan, Revenu Québec may grant the designation of eligible issuing corporation to a corporation that carries out a public offering of shares in relation to the qualifying transaction and that otherwise does not satisfy the criteria relating to an eligible issuing corporation.

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[67] See the *Clarifications concerning the five employees / twelve months criterion* sub-heading.

More specifically, such a designation may be granted to an issuing corporation that, on the date of the receipt of the final prospectus, satisfies the assets criterion and that of 50% of the value of property,[68] but does not satisfy the attachment criterion or that of five employees / twelve months, where the use, announced in a final prospectus, of most of the proceeds of the offering, is the carrying out of a qualifying transaction whose objective consists, directly or indirectly, of the continuation of an existing business that, had it been carried on by the issuing corporation throughout the period of twelve months preceding that time, would have allowed the latter to satisfy the attachment criterion and that of five employees / twelve months, and Revenu Québec is of the view that such offering satisfies the objectives of the SME Growth Stock Plan.

For greater clarity, a corporation that carries out a public offering of shares under the new plan in accordance with a prospectus exemption stipulated in section 51 of the *Securities Act* may not be designated as an eligible issuing corporation.

- **Non-qualified corporation**

The rules applicable under the former SSP stipulated a major restriction concerning the recognition, as a qualified corporation, of a corporation resulting from a merger involving a Québec Business Investment Company (QBIC).

Since a moratorium regarding QBICs has been in place since June 12, 2003 and such a rule would therefore be of little use for the time being, this restriction will not be included for the purposes of the new plan.

- **Clarification concerning a listing on a Canadian stock exchange**

Like the rules applicable in the former SSP, an eligible issuing corporation that makes a public offering of shares under the new plan will be required to take the necessary measures for its shares to be listed on a Canadian stock exchange no later than the sixtieth day following the date of the receipt for the final prospectus.

❑ Concept of adjusted cost

Under the rules applicable in the former SSP, the adjusted cost of a share or a security represented the amount to be used for the purposes of determining the tax benefits relating to the plan. Essentially, the concept of adjusted cost and the associated rules will also apply under the SME Growth Stock Plan, with the necessary adaptations.

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[68] For the purposes of the criterion regarding 50% of the value of property, the liquid assets of the eligible issuing corporation to be used in carrying out the qualifying transaction will not be included.

- **Adjusted cost of an eligible share**

The adjusted cost of an eligible share, for an individual or an investment fund, means the cost of such share for such individual or such fund, determined without including borrowing, brokerage, custody or other similar expenses relating thereto.

- **Adjusted cost of an eligible security**

The adjusted cost of an eligible security, for an individual, means the cost of such security, determined without including borrowing, subscription, custody or other similar expenses, multiplied by the percentage stipulated in the final prospectus, or the percentage determined in the 60 days following the end of the year in which the offering takes place.

In this latter regard, the rules of the former SSP for determining this percentage will also apply under the new plan, with the necessary adaptations. Briefly, this percentage will be established on the basis of the relative size of the adjusted costs of the shares eligible for the plan compared to the proceeds of the issue of securities of the investment fund.

- **Adjusted cost of a valid share**

The adjusted cost of a valid share, for an individual or for an investment fund, means the cost of such share for such individual or such fund, determined without including borrowing, brokerage, custody or other similar expenses related thereto.

❑ New rules concerning the holding of shares and securities

Under the rules of the former SSP, to retain the tax benefit relating to the acquisition of SSP shares or securities, an investor had to hold his SSP shares or securities for a certain period of time (minimum holding period).

However, to satisfy the minimum holding period, the investor did not have to keep the acquired securities. Briefly, he only needed to hold in his plan, on December 31 of the year of acquisition and on December 31 of the subsequent two taxation years, SSP shares or securities the total adjusted cost of which was at least equivalent to the amount of SSP deduction claimed during the two preceding taxation years. SSP investors were familiar with this requirement as the "rule of the three December 31s".

- **Minimum holding period increased by one year**

Under the SME Growth Stock Plan, a similar rule will apply, with the necessary adaptations. However, the length of the minimum holding period will be increased by one year. Consequently, the new plan will require that the investor hold in his SME Growth Stock Plan on December 31 of the year of acquisition and on December 31 of the three following taxation years, eligible shares, valid shares or eligible securities the total adjusted costs of which are at least equivalent to the amount of deductions claimed during the preceding three taxation years in relation to the SME Growth Stock Plan.

- **Almost permanent coverage obligation**

Briefly, as mentioned above, the rules of the former SSP did not impose a continuous coverage requirement on an investor, but only a specific coverage requirement on December 31 of the year of acquisition and on December 31 of the following two taxation years.

Accordingly, while the rules of the former SSP imposed a specific coverage for a minimum of two years and a day, i.e. for a period including three December 31 dates, an investor was technically required to cover his position only three days during his compulsory investment period.

Since one of the primary objectives of the former SSP was to capitalize qualified corporations, once this objective was achieved, i.e. once the injection of capital in the corporation was achieved by purchasing treasury shares, the fact that the shareholder sells on the secondary market the share acquired on the primary market and does not cover his position immediately after the sale was of little importance since the capitalization objective had been achieved.

One of the objectives of the SME Growth Stock Plan is to support demand regarding the shares of small corporations, and specific coverage at yearend is not enough to ensure that this objective is achieved.

Accordingly, to ensure that the capital whose injection will be encouraged by the new plan remains fully invested in the small corporation market segment throughout the year, while allowing investors to actively manage their portfolio, rules will be put in place to encourage almost permanent coverage. To that end, the concept of coverage deficiency amount (CDA) will be introduced.

A CDA will constitute, for an investor, a virtual withdrawal from his plan resulting from his failure to cover a real withdrawal within 21 days following the real withdrawal. For the purposes of the new plan, such a virtual withdrawal is deemed to be a withdrawal from the plan and will lead to the same consequences as a real withdrawal, in particular regarding the determination of amounts that can be included or deducted in the calculation of the taxable income of the investor.

More specifically, a CDA for an investor, regarding a given withdrawal from the SME Growth Stock Plan, at a given time, means the excess of the total adjusted cost of shares or securities withdrawn from the plan at such given time, over the total adjusted cost of shares or securities acquired after such given time and within the 21 days following such given time, provided such latter total was not previously included for purposes of calculating another CDA for the investor.

Introduction of the CDA will help control the continuous coverage of an investment in the SME Growth Stock Plan directly related with the calculation of a deduction or an inclusion. Accordingly, the CDA will be incorporated into this calculation as a withdrawal from the plan. This approach will help avoid the introduction of parallel rules to manage, over a period of up to four years, the consequences of a coverage failure since, technically, once the CDA is determined, the rules usually applicable to a withdrawal from the plan will govern the consequences of the coverage failure.

Despite the preceding, it must be pointed out that adjustments will be needed to the deduction and inclusion formulas to fully incorporate a CDA, particularly regarding the determination of the adjusted cost of shares and securities included in a plan at the end of the year, i.e. in relation to the account balance on December 31, as well as regarding the determination of the adjusted cost of shares and securities withdrawn from the plan during the year.

- **Tax consequences stemming from the two new obligations**

According to the rules of the former SSP, SSP transactions an individual carried out during a year could give rise to an inclusion in the calculation of income or to a deduction in the calculation of taxable income of the individual for such year.

Accordingly, to determine whether an amount had to be deducted or included for a given year, an individual had to use two formulas: a deduction formula and an inclusion formula.

In general, for the purposes of the SME Growth Stock Plan, to determine whether an amount has to be included in the calculation of income or deducted in the calculation of taxable income of an individual for a given year, the same formulas as those stipulated in the former SSP will apply under the new plan, with the incorporation therein, however, of the new rules concerning the holding of shares and securities, i.e. the one-year increase in the minimum holding period rule and the almost permanent coverage obligation rule. In addition, the annual deduction cap of 10% of the individual's total income for a year that applied under the former SSP will apply under the new plan. Lastly, convertible securities will no longer be eligible.

Accordingly, in mathematical form, the calculation of the deduction or the inclusion can be shown as follows:[69]

- **Deduction:**

The lesser of:
a) A
b) (B – C) – (D – E)

- **Inclusion:**

The lesser of:
a) F + G
b) (D – E) – (B – C)

where:

A = the total of the adjusted cost of eligible shares acquired during the year included in the plan no later than January 31 of the following year and of the adjusted cost of eligible securities acquired during the year and included in the plan no later than January 31 of the following year and that are held without interruption in the plan since their acquisition;

B = the adjusted cost of shares and securities included in the plan, at the end of the year, including those acquired in the year and included in the plan during the month of January of the following year;

C = the coverage deficiency amounts (CDA) for the year and for each of the preceding three years;

D = the amounts deducted under section 726.1 of the *Taxation Act*[70] for the preceding three years (i.e. the amount of previous deductions under the new plan);

E = any amount described in section 310 of the *Taxation Act*[71] and having to be included in the calculation of income for the two preceding years regarding a SME Growth Stock Plan (i.e. the amounts included in the calculation of income under the new plan);

F = the adjusted cost of shares and securities withdrawn from the SME Growth Stock Plan in the course of the year;

G = the coverage deficiency amounts (CDA) for the year.

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[69] Where the result of a calculation between parentheses is less than zero, it is deemed equal to zero.

[70] The reference to this section of the *Taxation Act* is given as an indication only because of the similarity of the concepts of the former SSP and the SME Growth Stock Plan.

[71] Ibid.

❑ Rules applicable in certain cases of alienation

The legislation relating to the former SSP included a variety of rules applicable to various special situations that could arise during the management of a plan.

Briefly, these rules cover situations regarding which the tax legislation stipulates the deemed alienation of certain property, in particular on the death of an individual, or in the event of the bankruptcy of an issuing corporation whose shares an individual had included in his plan.

Furthermore, rules were stipulated regarding situations of share splitting or replacement further to an exchange of shares, a capital restructuring or a merger involving a corporation regarding which shares were held in a plan.

Essentially, the purpose of these rules was to avoid penalizing an individual because of the occurrence of one of these events.

Generally speaking, the rules of the former SSP concerning such situations will also apply under the SME Growth Stock Plan, with the necessary adaptations.

❑ Investment funds

Briefly, an investment fund under the former SSP, designated a mutual fund or open-end investment company that made a public offering of securities in a year and undertook, in a final prospectus, to acquire, no later than December 31 of the year, securities eligible for the former SSP with the proceeds or expected proceeds, for the year, of the public issue of securities.

Furthermore, an investment fund had to undertake to own, on December 31 of the year and each of the two subsequent years, securities qualifying for the former SSP, whose adjusted cost was at least equal to the adjusted cost of the qualifying securities issued by the investment fund during the year.

Moreover, special rules to ease the undertakings of an investment fund could apply regarding an investment fund that was in its first public offering of qualifying securities.

Lastly, under the rules of the former SSP, an investment fund had to be established in Québec and the trustee or manager, as the case may be, had to reside in Canada and maintain an establishment in Québec.

In general, rules similar to the rules of the former SSP concerning an investment fund will apply, under the new plan, with the necessary adaptations, in particular regarding the minimum holding period and the almost permanent coverage requirement.

❑ Administration of the plan and administrative requirements

The rules concerning the former SSP stipulated various provisions relating to the administration of the plan.

Briefly, these rules imposed various requirements on a broker that was a party in the former SSP, in particular regarding the keeping of a separate account for each investor and compliance with the various requirements concerning the qualification of shares that can be included in an individual's plan.

In addition, these rules stipulated a requirement for an investment fund that was a party in a plan to maintain a separate account for each investor. Furthermore, it was stipulated that the trustee or manager of an investment fund had three months to provide Revenu Québec with a notice showing that it had complied with the requirements stemming from the undertakings stipulated in the final prospectus or prospectus exemption application, if applicable.

Lastly, these rules stipulated the filing of a prescribed form for an individual who wanted to avail himself of the plan.

In general, these administrative requirements concerning the former SSP will also apply under the SME Growth Stock Plan, with the necessary adaptations.

❑ Integrity of the SME Growth Stock Plan

The legislation relating to the former SSP stipulated various penalties in the event of violation of any of the requirements stipulated regarding this plan, or concerning a failure to comply with any of the requirements it stipulated.

Furthermore, the legislation stipulated various administrative rules applicable under the administration of these penalties.

In general, the various penalties and administrative rules stipulated by the former SSP will also apply under the SME Growth Stock Plan, with the necessary adaptations.

Furthermore, where the rules of the new plan concerning an investment fund apply and a placement is made in accordance with a prospectus exemption stipulated in section 51 of the *Securities Act*, an additional penalty will be introduced regarding an issuing corporation that fails to provide Revenu Québec with the notice stipulated in section 46 of the *Securities Act*, within the deadline set in such section. Such penalty will be equal to $25 per day the corporation is in default, up to $10 000.

Lastly, a flat penalty will also be introduced for a corporation that obtains, under false pretences, a designation of eligibility for the list of the AMF to enable the qualification of its shares as valid shares. Such flat penalty will be $100 000.

❑ Application date

The changes described in this subsection will apply as of the day following the day of this Budget Speech.

2.6 Measures pertaining to culture

For many years, the government has supported the development of Québec's cultural industries through a number of refundable tax credits. To ensure that the objectives of these tax credits are achieved, changes will be made to the tax credit for Québec film and television production, the tax credit for book publishing and to the tax credit for the production of shows.

In addition, changes will be made to standardize the rules applicable to all the tax credits in the cultural field.

Lastly, changes will be made to encourage the purchase of works by Canadian artists and subscriptions to cultural activities.

2.6.1 Changes to various refundable tax credits in the cultural field

❑ Tax credit for Québec film and television production

The refundable tax credit for Québec film or television production covers labour expenditures incurred by a corporation that produces a Québec film and generally corresponds to 29.1667% of the eligible labour expenditures incurred to produce the film. However, the labour expenditures giving rise to this tax credit may not exceed 50% of the production expenses of the film, so that the tax assistance may not exceed 14.58335% of such expenses.

For a production to be recognized as a Québec film, the *Regulation respecting the recognition of a film as a Québec film* (Regulation) stipulates that it must satisfy criteria in particular concerning the type of production, the persons who occupy certain specific creative positions and the percentage of the production expenses incurred in Québec.

More specifically, the Regulation stipulates that a film must belong to a category of eligible productions and not belong to a category of excluded productions to be recognized as a Québec film.

• Withdrawal of the minimum program length required for documentaries intended for children

Currently, a documentary must have a minimum of 30 minutes of programming or 30 minutes of programming per episode in the case of a series, to be recognized as an eligible production.

Moreover, shows intended for children have historically enjoyed preferred treatment regarding access to the tax credit for Québec film and television production, to offer young Quebecers a wide range of original and high-quality television shows.

Some documentary-type productions intended for children under age 13 are shorter than the minimum programming time currently required. Consequently, while these productions offer notable educational content, their short length prevents their eligibility for the tax credit for Québec film and television production.

Accordingly, to adequately support all productions for children, a change will be made.

More specifically, the Regulation will be amended to stipulate that a documentary intended for children under age 13 will not be subject to the requirement of a minimum programming length of 30 minutes. For greater clarity, a documentary intended for children is a production eligible for recognition as a Québec film, if it satisfies the other criteria stipulated in the Regulation, regardless of the length of such documentary.

This change will apply to a film or television production regarding which an application for an advance ruling, or a final certification application where no application for an advance ruling was previously filed, is filed with the Société de développement des entreprises culturelles (SODEC) after the day of this Budget Speech.

• Eligibility of recordings of improvisation matches

Currently, a variety show satisfying any of the following criteria is a production eligible for recognition as a Québec film:

- at least two thirds of its content consists of performances by performing artists, other than interview and participation in games, questionnaires or contests, in any form;
- it is a talk-show and the discussions deal completely, or almost completely, with artistic, literary, dramatic or musical activities and works;

— it consists wholly or almost wholly of performances by performing artists[72] and discussions on artistic, literary, dramatic or musical activities and works;

— it is intended for children under age 13.

Accordingly, excluding such shows intended for children, variety shows including participation in games, questionnaires or contests, in any form, are variety shows excluded from eligibility for the tax credit for Québec film and television production.

The ineligibility of a variety show presenting a recording of improvisation matches was not the objective of the exclusion of games, questionnaires and contests, in any form. To enable a variety show presenting a recording of improvisation matches to give rise to a tax credit for Québec film and television production, a change will be made.

More specifically the Regulation will be amended to add an exception to the exclusion of games, questionnaires and contests, in any form, in the specific case of a variety show presenting a recording of improvisation matches.

This change will apply to a film or television production regarding which an application for an advance ruling, or a final certification application where no application for an advance ruling was previously filed, is filed with SODEC after the day of this Budget Speech.

• Concordant regulatory changes

In general, categories of eligible productions and categories of excluded productions for the purposes of the refundable tax credit for film production services and the refundable tax credit for film dubbing are the same as those stipulated for the purposes of the refundable tax credit for Québec film and television production, without the Québec content requirements.

In this context, changes will be made to the regulations relating to the tax credit for film production services and the tax credit for film dubbing, to introduce the changes described above in the regulations respecting the tax credit for Québec film and television production.

These changes will apply, in the case of the tax credit for film production services, regarding a production for which an application for an advance ruling, or a final certification application where no application for an advance ruling was previously filed, is filed with SODEC after the day of this Budget Speech.

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[72] Other than interviews and participation in games, questionnaires or contests, in any form.

In the case of the tax credit for film dubbing, these changes will apply to a production that has been dubbed and for which a final certification application is filed with SODEC after the day of this Budget Speech.

❑ Tax credit for book publishing

The refundable tax credit for book publishing covers the labour expenditures attributable to the preparation and printing of an eligible book or a group of eligible books. This tax credit is equal to 35% of eligible labour expenditures of preparing an eligible book or eligible group of books, and to 26.25% of eligible labour expenditures relating to the printing expenses for such book or group of books.

In addition, the tax credit, for an eligible book or a book that is part of an eligible group of books, may in no event exceed $437 500.

• Addition of a minimum print run requirement

An eligible book, for the purposes of the tax credit for book publishing, is a book regarding which SODEC has issued a certificate to the effect that the book is written by a Québec author and is published for commercial purposes.

For the purposes of this latter criterion, the availability of the book and the existence of a distribution agreement enable SODEC, among other things, to verify whether the book for which an eligibility certificate application was filed, is published for commercial purposes.

However, some books filed with SODEC have very small print runs and have no distribution agreement. In such a situation, SODEC may be justified in calling into question the effective commercial intent of a book for which an eligibility certificate application was filed.

Accordingly, to facilitate the administration of the eligibility criterion relating to the commercial intent of a book, a minimum print run requirement will be added to the eligibility criteria of a book.

More specifically, the regulations relating to the tax credit for book publishing will be amended to stipulate that a book must have a minimum print run of 100 copies to be recognized as an eligible book or as a book that is part of an eligible group of books.

This amendment will apply to a book, or a book that is part of a group of books for which an application for an advance ruling, or a final certification application where no application for an advance ruling was previously filed, is filed with SODEC after the day of this Budget Speech.

• Adjustment relating to the percentage of eligible expenditures that must be paid to Quebecers or to corporations with an establishment in Québec

For a book to be eligible for the tax credit for book publishing, at least 75% of the amounts paid for its preparation and printing, other than the non-refundable advances paid to Québec authors, must be paid to persons who resided in Québec at the end of the calendar year preceding the one during which the printing work began, or to corporations that have an establishment in Québec during such year. However, this percentage may be lower in the case of printing expenses, if it is shown that the printing technology used for the book is not offered by a corporation with an establishment in Québec.

While justified when it was introduced, the exception applicable where it is shown that the printing technology used for the book was not available in Québec is no longer needed. Québec printers now have all the equipment and technology needed to satisfy the various needs of publishers.

Accordingly, to further encourage printing in Québec by means of the tax credit for book publishing, the regulations relating to this tax credit for book publishing will be amended to withdraw the exception relating to the availability of printing technology used for the book from the rule to the effect that 75% of the eligible expenditures relating to the preparation and printing of a book, other than the non-refundable advances paid to Québec authors, must be paid to Quebecers or to corporations with an establishment in Québec for a book to be eligible for the tax credit for book publishing.

This amendment will apply to a book, or a book that is part of a group of books for which an application for an advance ruling, or a final certification application where no application for an advance ruling was previously filed, is filed with SODEC after the day of this Budget Speech.

• Addition of a limit on book grouping

Currently, a publisher can elect to group many books for purposes of certification by SODEC and claiming the tax credit for book publishing from Revenu Québec.

Accordingly, once the eligibility criteria regarding each book of a group and regarding the group of books itself are satisfied, no rule limits the number of books that can be part of a given group of books, or the period during which the books can be included within the same group.

Moreover, the applicable rules stipulate that a final certification application be filed, in relation to an eligible group of books for which an application for an advance ruling has been filed, within 18 months of the date of first printing of the last printed work of a group of works, or, failing such application for an advance ruling, within the period of prescription applicable for the corporation's taxation year that includes the date of the first printing of the last printed work of a group.

In fact, the result is that a corporation might never be required to file a final certification application regarding an eligible group of books for which an advance ruling has been issued, provided that one of the books in the group satisfies the certification deadline otherwise applicable, i.e. that less than 18 months have elapsed since the date of the first printing of one of the books of the group.

All other tax credits in the cultural field stipulate a deadline for applying for final certification determined for each property, i.e. on the basis of the completion date of the property for which a final certification application must be filed.

Consequently and in the interests of concordance, a new eligibility criterion concerning an eligible group of books will be introduced.

More specifically, the regulations relating to the tax credit for book publishing will be amended to stipulate, for the purposes of a final certification application relating to an eligible group of books, a maximum period of 36 months between the date of first printing of the first book of a group of books and the date of first printing of the last book of the same group of books.

This change will apply to an eligible group of books, for which an application for an advance ruling, or a final certification application if no application for an advance ruling was previously filed, is filed with SODEC after the day of this Budget Speech.

❑ Refundable tax credit for the production of shows

The refundable tax credit for the production of shows covers labour expenditures attributable to services supplied for the production of an eligible show. This tax credit is equal to 29.1667% of the amount of eligible labour expenditures, which are limited, however, to 45% of the eligible production expenses of the show. Furthermore, the tax credit, for an eligible show, may in no event exceed $262 500.

In general, a production eligible for this tax credit is a musical, drama, comedy, mime or magic show that satisfies the Québec content criteria stipulated in a point scale. Furthermore, 75% of the amounts paid for the production of the show must be paid to persons who resided in Québec or to corporations with an establishment there.

Moreover, the show must not be part of an excluded category, i.e. it must not be a circus show, an aquatic show, an ice show, benefit performance or gala, or a private performance.

Essentially, the tax credit for the production of shows is designed to encourage consolidation in the Québec show business industry, enable the production of shows with larger budgets and support job creation. The exclusions mentioned above were introduced to ensure compliance with this fiscal policy.

Some types of shows may qualify as eligible shows under the existing criteria, without otherwise complying with the fiscal policy underlying the tax credit for the production of shows. Such is the case for a show that is a component of a game or an activity or food service, i.e. a show designed to promote a product not related to the entertainment industry. Examples include a theme supper or a murder-mystery evening.

In this context, the regulations will be amended to stipulate that a show that is a component of a game or an activity or food service is not an eligible production for the tax credit for the production of shows.

This change will apply retroactively to the effective date of the introduction of the tax credit for the production of shows, i.e. March 9, 1999.

❑ Adjustment relating to service contracts for the purposes of tax credits in the cultural field

The existing tax legislation stipulates six refundable tax credits targeting Québec's cultural industries, namely the tax credit for Québec film and television production, the tax credit for film production services, the tax credit for film dubbing, the tax credit for the production of shows, the tax credit for the production of sound recordings and the tax credit for book publishing.

The refundable tax credit for book publishing, for instance, covers the labour expenditures attributable to the preparation and printing of an eligible book or an eligible group of books. This tax credit is equal to 35% of the eligible labour expenditures relating to the expenses of preparing the eligible book or eligible group of books, and to 26.25% of the eligible labour expenditures relating to the printing expenses for such book or group of books.

In general, for the purposes of this tax credit, the amount of any government assistance and any non-government assistance, other than an excluded amount, that a corporation received or is entitled to receive, must reduce the amount of labour expenditures or publishing expenses, as the case may be, so that the amount of expenditures or expenses considered in the calculation of the tax credit to which the corporation is entitled, i.e. the cost actually assumed by the corporation in this regard. Similarly, the benefits and advantages that the corporation can reasonably expect to receive must reduce the amount of labour expenditures publishing expenses, as the case may be, for the purposes of the tax credit.

Accordingly, the tax legislation stipulates that the assistance, benefit or advantage received or receivable must be attributable to a labour expenditure, printing expenses or other preparatory expenses, as the case may be, for the amount of the assistance, benefit or advantage to reduce the amount of such expenditure or such expenses, for the purposes of the tax credit for book publishing.

Moreover, where a corporation concludes a sub-contract with a third party at arm's length for services to be provided in the course of publishing a book, the legislation stipulates, for the purposes of the tax credit for book publishing, that only a portion of the consideration paid to the third party for the execution of the contract (50% or 33 ⅓%, depending on whether the services contract relates to preparatory work or printing work) is attributable to the sub-contractor's labour. The application of this percentage to the consideration paid is designed to isolate the labour portion from the other expenses paid to the sub-contractor (materials, maintenance, delivery and profit margin, for instance).

However, where a corporation has received assistance, a benefit or an advantage attributable to the labour expenditure relating to a services contract, the existing legislation stipulates that such amount of assistance, such benefit or such advantage reduces the total labour expenditures of the corporation, and not just the labour expenditure attributable to the services contract. It follows that assistance, a benefit or an advantage received in relation to a services contract could reduce an amount of labour expenditures that is not attributable to such services contract.

This result is not consistent with the fiscal policy, which seeks to match the assistance, benefit or advantage with the expenditure for which such assistance, benefit or advantage was obtained.

This problem also affects the five other tax credits in the cultural field. Consequently, technical changes will be made for the purposes of each tax credit in the cultural field.

More specifically, for the purposes of these tax credits, the tax legislation will be amended to stipulate, in the case of assistance, a benefit or advantage attributable to a labour expenditure relating to a services contract, that the amount of the assistance, benefit or advantage will only reduce the consideration attributable to such contract for the purposes of calculating the eligible labour expenditure of the corporation.

These changes will apply by declaration to any property that may benefit, or may have benefited, from the tax credit for Québec film and television production, the tax credit for film production services, the tax credit for film dubbing, the tax credit for the production of shows, the tax credit for the production of sound recordings or the tax credit for book publishing, except regarding taxation years that are prescribed on the day of this Budget Speech. Accordingly, they will also apply regarding a year for which a notice of objection, an appeal or a waiver of prescription are duly served on the Minister of Revenue, before the day of this Budget Speech.

However, concerning a taxation year that is not prescribed on the day of this Budget Speech and for which an application for adjustment should prove necessary, a corporation must have filed such application by the prescription date applicable to such taxation year or the date corresponding to the 90th day following the date the statute giving effect to these amendments is assented to, whichever occurs later.

☐ Standardization of the tax treatment of assistance, benefits and advantages for the purposes of tax credits in the cultural field

The existing tax legislation stipulates six refundable tax credits targeting Québec's cultural industries, namely the tax credit for Québec film and television production, the tax credit for film production services, the tax credit for film dubbing, the tax credit for the production of sound recordings, the tax credit for the production of shows and the tax credit for book publishing.

In general, in applying each of these six tax credits, the amount of any government assistance and any non-government assistance, other than an excluded amount, that a corporation received or is entitled to receive, must reduce the amount of labour expenditures or production or publishing expenses, as the case may be, for the purposes of calculating the tax credit a corporation is entitled to.

Similarly, the amount of any benefit or advantage that a corporation received or is entitled to receive must reduce the amount of labour expenditures or production or publishing expenses, as the case may be, for the purposes of calculating the tax credit a corporation is entitled to.

In applying each tax credit in the cultural field, three disparities have been noted between the treatment of an amount of government or non-government assistance received in relation with a labour expenditure or production or publishing expenses, as the case may be, and that of advantages or benefits received in relation with such a labour expenditure or such production or publishing expenses.

Where a corporation repays an amount of assistance that previously reduced the amount of its eligible labour expenditure for a taxation year, it can include the amount thus repaid in calculating its eligible labour expenditure for the taxation year of the repayment. However, the tax legislation does not stipulate that possibility where a corporation makes repayment of an advantage or a benefit received in relation with a labour expenditure.

Moreover, the tax legislation stipulates that a special tax is payable in the year in which a corporation receives, is entitled to receive or can reasonably expect to receive an amount of government or non-government assistance relating to a labour expenditure giving rise to an amount of tax credit. However, no special tax is currently stipulated where a corporation receives, under the same circumstances, a benefit or an advantage attributable to a labour expenditure that gave rise to an amount of tax credit.

Lastly, no special tax is stipulated regarding an amount of assistance, benefit or advantage attributable to production or publishing expenses, as the case may be, for the purposes of each tax credit in the cultural field.

Conceptually, the amounts of assistance as well as the benefits and advantages received in relation to a labour expenditure or production or publishing expenses, as the case may be, should give rise to the same tax treatment for the purposes of each tax credit in the cultural field.

These amounts (assistance, benefit or advantage), when received in the course of production of a property, all reduce a corporation's financial burden in relation to such property. Consequently, they should all reduce the labour expenditure or the production or publishing expenses of a corporation, as the case may be, for the purposes of a tax credit in the cultural field.

Similarly, if a corporation repays such amounts (assistance, benefit or advantage) that had previously reduced the amount of its labour expenditure of its production or publishing expenses, in relation to a property for which a tax credit was allowed, the corporation should be able to add the amount of the repayment thus made to the amount of its labour expenditure or its production or publishing expenses, regardless of the nature of the amount repaid (assistance, benefit or advantage).

Lastly, a special tax should enable Revenu Québec to recapture an excess amount of tax credit allowed a corporation because of the receipt of any of these amounts (assistance, benefit or advantage), whether this amount is attributable to the labour expenditure or to the production or publishing expenses of a corporation, as the case may be, in relation to a property that gave rise to a tax credit in the cultural field.

Accordingly, to simplify the administration of the tax credits in the cultural field through a standard application of the rules, it is appropriate to harmonize the tax treatment applicable to amounts of assistance, benefits and advantages for the purposes of each tax credit in the cultural field.

More specifically, the tax legislation will be amended to stipulate that the amount of the repayment of assistance, a benefit or advantage that had previously reduced the amount of the labour expenditure or the production or publishing expenses of a corporation, as the case may be, in relation to a property for which a tax credit was allowed, will be added to the amount of the labour expenditure or the production or publishing expenses of such corporation, as the case may be, for the purposes of the tax credit for Québec film and television production, the tax credit for film production services, the tax credit for film dubbing, the tax credit for the production of sound recordings, the tax credit for the production of shows and the tax credit for book publishing.

Furthermore, the tax legislation will be amended to stipulate that, in the case of each of these tax credits, a special tax will be payable in the year in which a given corporation receives, is entitled to receive or can reasonably expect to receive assistance, a benefit or an advantage attributable to the labour expenditure or the production or publishing expenses of such corporation, as the case may be, in relation to a property for which a tax credit was allowed.

These changes will apply to assistance, a benefit or an advantage repaid, received or receivable as of the day following the day of this Budget Speech.

2.6.2 Increase in the depreciation rate of works of art by a Canadian artist

A taxpayer who operates a business or receives property income and who acquires a drawing, print, engraving, sculpture, painting or other work of art of the same nature by a Canadian artist in order to display it at his place of business may, each year, claim a deduction for depreciation of 20% of the capital cost of such work to him, on a residual basis.

To further support the purchase of works by Canadian artists, the depreciation rate of works of art by a Canadian artist will be raised from 20% to 33 ⅓%.

This change will apply to works of art acquired after the day of this Budget Speech.

2.6.3 Broadening of the deduction for a subscription to certain cultural activities

Meal and entertainment expenses incurred by a taxpayer in the course of carrying on a business or to earn income from property may be eligible for deduction in calculating his income. However, in view of the element of personal consumption inherent in such expenses, the portion of such expenses that can be deducted is limited to 50%.

In addition, meal and entertainment expenses otherwise deductible incurred in a taxation year are capped depending on the taxpayer's annual sales and this cap amounts to 2% in the case of annual sales of $32 500 or less, $650 where annual sales are greater than $32 500 but not in excess of $52 000, and 1.25% in the case of annual sales greater than $52 000.

Nonetheless, some expenses have been exempted from the application of the 50% limit and the cap, i.e., briefly, those relating to the cost of a subscription to three or more cultural activities or block purchases of tickets for symphony concerts or the concerts of classical or jazz ensembles, opera performances, dance or vocal performances, or plays, provided that the cultural events take place in Québec.

To increase the attractiveness of a subscription to three or more cultural activities, the tax legislation will be amended to add different types of performing arts (comedy and musical comedy, for instance) and museum exhibits to the list of eligible cultural events for the purposes of the exception relating to the cost of a subscription or block purchase of tickets, provided such events take place in Québec.

These amendments will apply to purchases of subscriptions or tickets made after the day of this Budget Speech.

2.7 Introduction of a refundable tax credit for the production of ethanol in Québec

Rising world demand for petroleum products, declining reserves of hydrocarbons and growing concerns for the protection of the environment are prompting many countries to make substantial efforts to develop renewable resources.

The federal government and certain provincial governments encourage ethanol production by exempting the ethanol component of a mix of ethanol and another fuel from the gasoline excise tax or the fuel tax, as the case may be.

In Québec, on December 12, 1996, a similar measure was announced to encourage the building of an ethanol plant.[73] However, construction of the plant was delayed and this measure, which was to become effective on January 1, 1999, was postponed indefinitely.[74]

Moreover, under the Ethanol Expansion Program, the federal government recently announced that it would contribute to the funding of the construction or expansion of ethanol-fuel production plants in Canada, one of which is to be located in Québec.

Accordingly, to encourage energy supply diversification in Québec, a temporary refundable tax credit will be introduced for the production of ethanol in Québec.

More specifically, this tax credit will be granted, for a maximum of ten years beginning no earlier than April 1, 2006 and ending no later than March 31, 2018, regarding the production of ethanol in Québec by an eligible corporation.

❑ Eligible corporation

In general, any corporation, other than an excluded corporation, which, during a taxation year, has an establishment in Québec where it carries on an ethanol production business may, under certain conditions, claim the refundable tax credit for such year.

❑ Production of ethanol

For the purposes of the refundable tax credit, the expression "ethanol" means ethyl alcohol with the chemical formula C_2H_5OH produced in Québec from renewable materials and sold either as a product to be mixed directly with gasoline or for use as an input in the reformulation of gasoline or the making of ethyl tertiary-butyl ether (ETBE).[75]

Moreover, an eligible corporation's ethanol production by must be sold, in Québec, to a person who holds a collection officer's permit issued under the *Fuel Tax Act*.[76]

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[73] Ministère des Finances, Information Bulletin 96-8.

[74] Ministère des Finances, Information Bulletin 98-8.

[75] ETBE is an oxygenate made by combining ethanol and isobutylene and sold as a product to be added to gasoline.

[76] For greater clarity, a collection officer is any person, excluding a retail dealer, who sells, delivers or has fuel delivered in Québec.

❑ Determination of the tax credit

The tax credit an eligible corporation may receive, for a taxation year, will be determined by multiplying, for each month[77] of a given taxation year, the production of ethanol carried out during such month, expressed in litres, by a rate depending on the average monthly price of crude oil. The maximum rate of the tax credit, for a given month, will be $0.185 per litre.

For a given month, the average monthly price of crude oil will consist of the arithmetic average of the daily closing values on the New York Mercantile Exchange (NYMEX) of the price per barrel of West Texas Intermediate in Oklahoma (WTI-Cushing), expressed in American dollars.

The monthly amount of the tax credit will be calculated as follows:

$$A \times [(\$0.185 - (\$0.0082\,B + \$0.004\,C)]$$

where:

- — the letter A represents the production of ethanol by the eligible corporation during a given month, expressed in litres;
- — the letter B represents, when the average monthly price of crude oil is above US$31, the difference between such average monthly price, up to US$43, and US$31;
- — the letter C represents, when the average monthly price of crude oil is above US$43, the difference between such average monthly price, up to US$65, and US$43.

Accordingly, allowing for the reduction factors, no tax credit will be granted, for a given month, when the average monthly price of crude oil is equal to or greater than US$65.

❑ Annual and cumulative ceilings on ethanol production

The refundable tax credit may be granted, for a given taxation year, for a maximum ethanol production of 126 million litres. Accordingly, where the ethanol production of an eligible corporation reaches, on a cumulative basis, the annual threshold of 126 million litres, the calculated tax credit for the month during which such threshold is reached will apply only to the difference between the annual ceiling of 126 million litres and the cumulative production of ethanol at the end of the preceding month.

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[77] If the taxation year of an eligible corporation begins on a day other than the first day of a calendar month, the month means the period beginning on such day of a month and ending before the same day of the following month.

For greater clarity, any ethanol production for which no tax credit has been granted, because of an average monthly price of crude oil greater than US$65, will also be considered in the cumulative production for a given taxation year.

If the taxation year of an eligible corporation includes fewer than 365 days, the annual ceiling will be calculated in proportion to the number of days of such taxation year. Similarly, if the end of the corporation's taxation year does not coincide with the end of its eligibility period, the annual ceiling must be calculated in proportion to the number of days of such taxation year preceding the end of its eligibility period compared to the number of days of such taxation year.

Moreover, no tax credit is granted to an eligible corporation where the total cumulative production of ethanol exceeds 1.2 billion litres. Accordingly, where the production of ethanol of an eligible corporation reaches, on a total cumulative basis, the threshold of 1.2 billion litres, the tax credit calculated for the month during which such threshold is reached will apply only to the difference between the cumulative ceiling of 1.2 billion litres and the total cumulative production of ethanol at the end of the preceding month.

In addition, a monetary cap will apply to this tax credit. Accordingly, for the eligibility period, the total cumulative amount of this tax credit cannot exceed the result obtained by multiplying the nominal capacity of the ethanol plant, established for an eligibility period, by $0.152, i.e. the tax applicable to gasoline under the fuel tax regime. However, the total nominal capacity of the production plant, for the eligibility period, may not exceed 1.2 billion litres.

Lastly, the production of ethanol will be established on a consolidated basis, i.e. considering the production of ethanol, in Québec, of the eligible corporation and the corporations associated with it at a given time during a taxation year and the eligibility period. Associated corporations must also aggregate their nominal production capacity in determining the monetary cap. For greater clarity, associated corporations must divide their ethanol production and their nominal production capacity among themselves and file an agreement to that end with Revenu Québec, according to the usual rules.

❑ Other application details

In the case where the production of ethanol for which a tax credit has been granted is not sold in Québec to a person who holds a collection officer's permit, issued under the *Fuel Tax Act*, the tax credit thus granted will be recovered by means of a special tax.

In such a case, the annual and cumulative productions of the eligible corporation will be adjusted to reflect such recovery.

Moreover, the amount of the tax credit calculated for a taxation year must be reduced by the amount of any government assistance, any non-government assistance and any profit or benefit.

However, for the purposes of the tax credit, the assistance attributable to a specific grain price stabilization program negotiated with Financière agricole du Québec, any manpower training program and federal government assistance directly attributable to the ethanol industry segment, in particular regarding market expansion, process improvement, energy efficiency and change in raw materials, will not be considered as government assistance.

Furthermore, a future rise in the rate of the excise tax, with no change to the exemption from this tax regarding ethanol, will be considered government assistance received for the purposes of this tax credit.

In such a case, the tax credit calculated for a given taxation year must be reduced by the amount corresponding to the rise in the rate of the excise tax multiplied by the production of ethanol carried out as of the month following the effective date of the rise, for each month included in such given taxation year.

The amount of the refundable tax credit for the production of ethanol, for an eligible corporation, may be applied against its instalment payments to be made, if any, for income tax and the tax on capital, according to the usual rules.

To receive this tax credit, for a taxation year, an eligible corporation must enclose with its tax return, for such year, a form prescribed by Revenu Québec and a report specifying, for each month of its taxation year, the production of ethanol carried out in Québec as well as the average monthly price of crude oil used for the purposes of determining the tax credit.

❑ Excluded corporation

An “excluded corporation”, for a taxation year, means:

— a corporation that is tax-exempt;

— a Crown corporation or a wholly-controlled subsidiary of such a corporation.

❑ Interim financing

Investissement Québec may offer a loan guarantee to ensure interim financing of the tax credit.

☐ Eligibility period

The tax credit will be granted to an eligible corporation for a maximum of ten years beginning no earlier than April 1, 2006. However, to receive this tax credit for a full ten years, an eligible corporation must begin to carry on an ethanol production business in Québec no later than April 1, 2008.

If an eligible corporation begins to carry on an ethanol production business in Québec after March 31, 2008, the corporation may claim the tax credit only for a period not in excess of the number of years left to run from such subsequent year until March 31, 2018 inclusive. For example, an eligible corporation that begins to carry on an ethanol production business in Québec on April 1, 2010 could claim the refundable tax credit for a maximum of eight years.

2.8 Introduction of a refundable tax credit for major employment-generating projects

In the June 12, 2003 Budget Speech, many fiscal measures relating to the carrying out of activities in certain designated sites, in particular the measures relating to E-Commerce Place, the Montréal E-Commerce Zone and the Centre national des nouvelles technologies de Québec, were eliminated. However, transition rules allow corporations eligible for these measures to continue to receive tax assistance according to the stipulated terms and conditions.

The elimination of these measures was announced in a context of tightening tax expenditures and was designed to put an end to tax assistance linked to the carrying out of activities in a specific geographic location.

Moreover, businesses operating in the information technology sector contribute to the creation of quality jobs that are often filled by young graduates recently who are recent arrivals on the job market. In a context of keen international competition, it is important to maintain jobs in this promising sector, to provide opportunities for future workers and limit the exodus of specialized workers.

To consolidate the development of information technology throughout Québec while encouraging businesses to locate and expand here, a temporary refundable tax credit will be introduced regarding major employment-generating projects in this sector.

More specifically, an eligible corporation may claim a refundable tax credit equal to 25% of the eligible salaries it incurs as of January 1, 2005 and pays to eligible employees working in the course of carrying out eligible contracts. An eligible corporation may receive this tax credit regarding salaries incurred, in relation to such contract, until December 31, 2016.

❑ Eligible corporation

In general, any corporation, other than an excluded corporation, that, during a taxation year, has an establishment in Québec where it carries on a business whose activities, carried out under an eligible contract, are included in the information technology sector, may claim, for such year, under certain conditions, the refundable tax credit regarding major employment-generating projects.

However, such a corporation must obtain an initial eligibility certificate from Investissement Québec confirming that it operates in the information technology sector and that, according to Investissement Québec, it is reasonable to consider that the carrying out of the eligible contract concluded by such corporation will lead to the creation of a minimum of 500 jobs within 24 months beginning on the date the eligible contract is concluded.

Investissement Québec will release the criteria that will be used to make such a determination.

❑ Eligible contract

For the purposes of the refundable tax credit, an eligible contract of a corporation means a contract it concludes regarding which Investissement Québec has issued a certificate to the effect that activities included in the following categories will be carried out in the course of the contract:

- activities involving the development and supply of products and services relating to e-business;
- activities relating to the operation of e-business solutions;
- activities of a customer-contact centre that support, at the transactions level, a sales and marketing service, featuring a technological environment making use of various media, capitalizing on the convergence of computerized telephony technologies.

For greater clarity, the activities described above are the same as those that were considered eligible activities for the purposes of the refundable tax credit for e-business activities carried out in certain designated sites. Accordingly, the guidelines issued by Investissement Québec regarding this refundable tax credit will be used to determine whether, for the purposes of the application of the new refundable tax credit regarding major employment-generating projects, the activities carried out under a contract are activities involving the development and supply of products and services relating to e-business, activities realting to the operation of e-business solutions or activities of a customer-contact centre. These guidelines are available on the website of Investissement Québec: www.investquebec.com

Similarly, activities excluded for the purposes of the refundable tax credit for e-business activities carried out in certain designated sites cannot be considered activities carried out under an eligible contract for the purposes of this refundable tax credit.

Moreover, to be eligible, a contract must be concluded after December 31, 2004 and before January 1, 2008. For greater clarity, the renewal of a contract concluded before January 1, 2005 cannot constitute an eligible contract for the purposes of this refundable tax credit. Similarly, a contract concluded between an eligible corporation and a person with whom it is not at arm's length cannot qualify as eligible contract.

❑ Eligible employees

The expression "eligible employee" of an eligible corporation, regarding an eligible contract for a taxation year, means an employee of an establishment in Québec of the eligible corporation for which Investissement Québec has delivered, for such year, an eligibility certificate[78] to the effect that the following conditions are satisfied:

— he holds, in the course of carrying out an eligible contract, a full-time job, with a minimum of 26 hours of work a week, for a stipulated minimum of 40 weeks;

— at least 75% of his duties are devoted to carrying out, supervising or directly supporting activities carried out under an eligible contract;

— he is not a specified shareholder of the eligible corporation.

Moreover, administrative tasks such as management of the operations, accounting, finances, legal affairs public relations, communications, prospecting for mandates as well as human and physical resources management, will not be considered as tasks relating to the execution of an activity carried out in the course of an eligible contract.

For greater clarity, Investissement Québec will be able to issue an eligibility certificate for a portion of a taxation year of an eligible corporation, in which case the eligibility certificate will have to indicate the eligibility period of the employee.

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[78] However, Investissement Québec may not issue an eligibility certificate regarding an employee of the eligible corporation, for a period, if it has previously issued, for such period, an eligibility certificate regarding the same employee for the purposes of another refundable tax credit or the refundable credit for employer contributions to the HSF for corporations located in E-Commerce Place.

Lastly, for a given taxation year, an eligible corporation may receive a tax credit regarding the salaries paid to a maximum of 2 000 eligible employees. However, where an eligible corporation is associated with one or more other eligible corporations at any time during such given year, such limit on the number of eligible employees is set on a consolidated basis, i.e. by considering the eligibility certificates issued regarding the eligible employees of each of the eligible corporations that are part of such group. For greater clarity, the associated eligible corporations must allocate this limit of 2 000 eligibility certificates among themselves and file an agreement to that effect with Revenu Québec, in accordance with the usual rules.

❑ Eligible salaries

The expression "eligible salaries" of an eligible corporation, for a taxation year, means the salaries calculated according to the *Taxation Act* and incurred by the eligible corporation, in the year, regarding its eligible employees for such year.

For greater clarity, the total salary incurred regarding an eligible employee may constitute, subject to the rules described below, an eligible salary for the purposes of this tax credit.

More specifically, the amount of salaries incurred by an eligible corporation, during a taxation year, must be reduced by the amount of any government assistance, any non-government assistance, and any profit or benefit attributable to such salaries, according to the usual rules.

Furthermore, the eligible salary, regarding an eligible employee, is limited to an amount of $60 000, calculated on an annual basis and on the basis of the number of days of the taxation year of the eligible corporation in which the employee qualifies as an eligible employee. Accordingly, the amount of the tax credit, for a taxation year, may not exceed $15 000 per eligible employee, on an annual basis.

Lastly, the eligible salaries of an eligible corporation must have been paid at the time the tax credit is claimed from Revenu Québec.

❑ Payment of the tax credits

No tax credit earned may be claimed by a corporation until it has achieved the minimum job creation thresholds.[79] In general, a corporation may claim the first half of the tax credits it has earned once it has created a minimum of 250 jobs, and the other half once it has achieved the threshold of 500 jobs created.

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[79] This minimum job creation criterion will be determined by considering all the jobs created by associated corporations. However, to avoid making this text cumbersome, only the case of one corporation is discussed.

Moreover, the criteria used by Investissement Québec to determine whether these minimum job creation thresholds have been achieved will be the same as those that this organization will use for issuing an initial eligibility certificate to one corporation.

To that end, half of the salaries otherwise eligible, or all of them if applicable, incurred during the period preceding the achievement of these minimum thresholds, will be deemed, for the purposes of the tax credit, to be salaries incurred during the taxation year during which the corporation achieves the minimum threshold of 250 or 500 eligible jobs, as the case may be.

Accordingly, each half of the tax credit earned by an eligible corporation may be claimed no sooner than the taxation year of the corporation during which it reaches the minimum job creation threshold,[80] and all of such portion of the tax credit will be payable to it for such taxation year.

In the case of the threshold of the first 250 jobs, Investissement Québec will issue, for the purposes of the this criterion for the payment of the tax credit, a certificate indicating the number of jobs created by a corporation in the course of carrying out its eligible contract.

Moreover, Investissement Québec will issue a final eligibility certificate indicating the date on which the threshold of 500 jobs created is achieved, which date may not be later than the end of the period of 24 months applicable to the corporation for such eligible contract. Such certificate will enable the corporation to claim, for the taxation year during which this threshold is achieved, the portion of the tax credit not yet claimed.

❑ Other application details

The refundable tax credit regarding major employment-generating projects may be applied against instalments of an eligible corporation in relation to income tax and the tax on capital, according to the usual rules.

However, only the portion of the tax credit that a corporation may claim for a taxation year may be considered for the purposes of reducing instalments.

To claim this tax credit, for a taxation year, an eligible corporation must enclose with its tax return for such year a form prescribed by Revenu Québec, a copy of the eligibility certificates issued to the eligible corporation by Investissement Québec, a copy of the eligibility certificate regarding its eligible contract and a copy of the certificates issued in relation to the eligible employees for whom it claims a tax credit.

Moreover, if the eligible salaries for which a tax credit is granted are paid back to an eligible corporation, in whole or in part, the tax credit granted for the amount thus paid back will be recovered by means of a special tax.

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[80] For greater clarity, all of the tax credit may be claimed for a taxation year if the two thresholds of 250 and 500 jobs are achieved in the course of the same taxation year of the corporation.

Similarly, if an eligible corporation does not achieve the minimum threshold of 500 eligible jobs by the end of the period of 24 months applicable to it, the eligibility certificates issued to it will be revoked by Investissement Québec and the first half of the tax credits previously granted, if any, will be recovered by means of a special tax.

Lastly, the tax legislation contains rules designed to prevent the accumulation of tax assistance regarding an expenditure that may give rise to more than one tax credit, for more than one taxpayer or for the same taxpayer. For greater clarity, these rules will also apply to corporations eligible for the refundable tax credit regarding major employment-generating projects.

A similar rule will also apply to ensure that, where the activities of an eligible corporation are covered by this tax credit and by a tax holiday, the activities carried out in the course of an eligible contract and that may give rise to this tax credit cannot constitute eligible activities for the purposes of such a tax holiday. In this regard, a concordant amendment will be made to the legislation relating to such a tax holiday.

❑ Excluded corporation

An "excluded corporation", for a taxation year, means:

- a corporation that is tax-exempt;
- a Crown corporation or a wholly-controlled subsidiary of such a corporation.

❑ Tax credit eligibility period

The refundable tax credit for major employment-generating projects may be granted to an eligible corporation regarding eligible salaries it incurs and pays to its eligible employees after December 31, 2004 and before January 1, 2017.

2.9 Other changes

2.9.1 Standardization of the tax treatment of assistance, benefits and advantages for the purposes of tax credits for businesses

In general, the amount of any government assistance and any non-government assistance, other than an excluded amount, that a taxpayer received or is entitled to receive, must reduce the amount of expenditures of such taxpayer for the purposes of calculating a tax credit to which the taxpayer is entitled.

Similarly, the amount of any benefit or advantage that a taxpayer received or is entitled to receive must reduce the amount of expenditures of such taxpayer for the purposes of calculating a tax credit to which the taxpayer is entitled.

As in the situation described for the purposes of tax credits in the cultural field, amounts of assistance as well as benefits and advantages received in relation to an expenditure should give rise to the same tax treatment for the purposes of each tax credit for businesses.

These amounts (assistance, benefit or advantage) all reduce a taxpayer's financial burden. Consequently, they should all reduce a taxpayer's expenditure for the purposes of a tax credit to which the taxpayer is entitled.[81] However, if a taxpayer later repays any of these amounts, it should be possible to add the amount thus repaid to the amount of the taxpayer's expenditure for the purposes of calculating the tax credit to which the taxpayer is entitled. Similarly, a special tax should allow Revenu Québec to recapture an overpayment of tax credit to a taxpayer owing to the reception of an amount of assistance, a benefit or an advantage attributable to the taxpayer's expenditure.

Accordingly, the legislation will be amended to standardize the tax treatment of amounts of assistance, benefits and advantages for the purposes of each tax credit for businesses.

More specifically, the tax legislation will be amended to stipulate that the repayment of assistance, a benefit or an advantage that had previously reduced the amount of a taxpayer's expenditure for which a tax credit for businesses was granted will be added to the amount of such taxpayer's expenditure for the purposes of the tax credit to which the taxpayer is entitled.

In addition, the tax legislation will be amended to stipulate that a special tax will be payable in the year in which a taxpayer received, is entitled to receive or can reasonably expect to receive assistance, a benefit or an advantage attributable to an expenditure of such taxpayer for which a tax credit for businesses was granted.

These changes will apply to assistance, a benefit or an advantage repaid, received or receivable as of the day following the day of this Budget Speech.

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[81] Other than an excluded amount.

2.9.2 Refundable tax credits for the production of multimedia titles

An initial refundable tax credit relative to the production of multimedia titles (general component) was introduced in the May 9, 1996 Budget Speech. In the March 31, 1998 Budget Speech, a second tax credit applying exclusively to corporations whose activities consist chiefly in producing such titles was introduced (tax credit for specialized corporations).

Essentially, the difference between the two tax credits lies in the fact that a corporation that wants to benefit from the general component must obtain the required certificates for each of the multimedia titles it produces, while a corporation that intends to claim the tax credit for specialized corporations must obtain the required certificates for all its activities. However, in either case, the certificates are issued by Investissement Québec.[82]

For the purposes of these two tax credits, the amount of tax assistance that an eligible corporation may obtain is determined by the amount of eligible labour expenditure of the corporation, to which a varying percentage is applied based on the category of multimedia titles produced by the corporation.

Moreover, under certain circumstances, particularly where a labour expenditure for which a tax credit is granted is repaid to a corporation, the tax credit overpayment can be recaptured by means of a special tax.

☐ Adjustment regarding services contracts

Briefly, the labour expenditure of an eligible corporation, for the purposes of the general component and the tax credit for specialized corporations, consists of wages and salaries incurred by the corporation in respect of its employees and chargeable to the production of a multimedia title, as well as the portion of the consideration that the corporation paid under a services contract for production work relating to a multimedia title that can reasonably be attributed to wages or salaries associated with such work.

More specifically, where a corporation concludes a sub-contract with a third party at arm's length for services to be provided in the course of producing multimedia titles, the legislation stipulates, for the purposes of the general component and the tax credit for specialized corporations, that only a portion of the consideration paid to the third party for the execution of production work under the contract (50%) is attributable to the sub-contractor's labour. The application of this percentage to the consideration paid is designed to isolate the labour portion from the other expenses paid to the sub-contractor (materials, maintenance, delivery and profit margin, for instance).

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[82] To make the text easier to understand, all references to certificates will include a reference to a favourable advance ruling or to a certificate.

Moreover, the amount of any government assistance and any non-government assistance, other than an excluded amount, that a corporation received or is entitled to receive and that is attributable to a labour expenditure, must reduce the amount of the corporation's labour expenditures for the purposes of these tax credits, so that the amount of the expenditures considered in calculating the tax credit to which a corporation is entitled, is the cost actually borne by the corporation in this regard. Similarly, the benefits and advantages that a corporation can reasonably expect to receive must reduce the amount of labour expenditures for the purposes of these tax credits.

However, where a corporation has received assistance, a benefit or an advantage attributable to the labour expenditure relating to a services contract, the existing legislation stipulates, in the case of the general component, that the amount of such assistance, benefit or advantage reduces the total labour expenditures of the corporation and not just the labour expenditure attributable to the services contract. This is also the case for the purposes of the tax credit for specialized corporations regarding a benefit or an advantage received in relation to such a services contract, since the legislation stipulates that the amount of such benefit or advantage reduces the total labour expenditures of the corporation and not just the labour expenditure attributable to the services contract.

It follows that assistance, a benefit or an advantage received in relation to a services contract could reduce an amount of labour expenditure that is not attributable to such contract. However, this result is not consistent with the tax policy that seeks to match assistance, a benefit or an advantage with the expenditure for which such assistance, benefit or advantage was obtained.

In this context, the tax legislation will be amended for the purposes of the tax credit for the production of multimedia titles and the tax credit for corporations specializing in the production of multimedia titles to stipulate, in the case of assistance, a benefit or an advantage attributable to a labour expenditure relating to a services contract, that the amount of the assistance, benefit or advantage will only reduce the consideration attributable to such contract for the purposes of calculating the eligible labour expenditure of the corporation.

This change will apply by declaration, except regarding taxation years that are prescribed on the day of this Budget Speech. Accordingly, it will also apply regarding a year for which a notice of objection, an appeal or a waiver of prescription has been duly served on the Minister of Revenue, before the day of this Budget Speech.

However, in regard to a taxation year that is not prescribed on the day of this Budget Speech and for which an application for adjustment should prove necessary, a corporation must have filed such application by the prescription date applicable to such taxation year or the date corresponding to the 90th day following the date the statute giving effect to this amendment is assented to, whichever occurs later.

❑ Special tax in the event of revocation of a certificate

For the purposes of the general component, an eligible multimedia title of an eligible corporation means a multimedia title for which Investissement Québec has issued a certificate.

In addition, for the purposes of the tax credit for specialized corporations, an eligible corporation, for a taxation year, means a corporation other than an excluded corporation that, during the year, has an establishment in Québec and carries on a multimedia title business there. Furthermore, to claim the tax credit for a taxation year, the eligible corporation must hold a final certificate issued by Investissement Québec, for the year, certifying that all or almost all of its activities carried out in Québec consist in producing eligible multimedia titles.

When a title no longer qualifies for the purposes of the general component or a corporation no longer meets the application criteria for the tax credit for specialized corporations, Investissement Québec may revoke a certificate. In that case, the certificate is void from the date on which the revocation takes effect and is deemed to have not been issued.

However, if a certificate is revoked by Investissement Québec in a given taxation year, Revenu Québec currently cannot levy a special tax for such given taxation year in order to recapture the amount of tax credit overpayment made during a preceding taxation year.

For the purposes of the general component and the tax credit for specialized corporations, the option for Revenu Québec to act on a revocation by Investissement Québec and issue an assessment to recapture an overpayment of tax credit is subject to the periods of prescription otherwise applicable for the corporation's taxation year in which the tax credit overpayment was obtained.

However, for the purposes of certain other tax credits for businesses, Revenu Québec is not subject to the same constraints since a special tax is applicable in cases where a certificate is revoked.

Therefore, the tax legislation will be amended so that the amount of a tax credit overpayment can be recovered at any time by Revenu Québec when it is advised of a revocation by Investissement Québec.

More specifically, a tax credit for multimedia titles or a tax credit for corporations specializing in the production of multimedia titles may be recaptured by means of a special tax when a certificate issued in relation to a multimedia title or the corporation, as the case may be, and under which such a tax credit was granted, is revoked by Investissement Québec.

For greater clarity, any revocation by Investissement Québec may henceforth give rise to the application of a special tax for the purposes of the tax credit for multimedia titles and the tax credit for corporations specializing in the production of multimedia titles.

2.9.3 Standardization of the impact of a revocation for the purposes of various tax benefits

For the purpose of various tax credits for businesses, tax holidays and other tax benefits, an eligibility certificate must be issued by an organization invested with such responsibility in order for a taxpayer to obtain a tax credit, a tax holiday or other given tax benefit.[83] As the case may be, a certificate may cover a property, a taxpayer, an expenditure, a business or part of a business, an activity, an employee, and so forth.

For example, for the purposes of the refundable tax credit for processing activities in the resource regions, a corporation must carry on a certified business, i.e. a business for which an eligibility certificate has been issued by Investissement Québec, in order to avail itself of this fiscal measure. Similarly, for the purposes of all tax holidays granted to foreign employees, a sectoral organization must have issued an eligibility certificate for an individual in order for the individual to obtain such a tax holiday.

Furthermore, the tax legislation does not provide for, for the purposes of certain tax credits for businesses, certain tax holidays and certain other benefits, a special tax applicable upon the revocation, by the responsible organization, of an eligibility certificate that gave rise to such a tax credit, tax holiday or other tax benefit. In such cases, the option for Revenu Québec to act on a revocation notified to it by the responsible organization and issue an assessment to recapture a tax credit, tax holiday or other tax benefit overpayment is subject to the periods of prescription otherwise applicable for the taxpayer's taxation year in which the tax credit, tax holiday or tax benefit overpayment was obtained.

However, for the purposes of other tax measures provided for by the legislation, Revenu Québec is not subject to the same constraints, since a special tax is applicable in cases where a certificate is revoked.

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[83] Ibid.

Therefore, the tax legislation will be amended to standardize the rules that apply when Revenu Québec is advised of a revocation and ensure that Revenu Québec can issue an assessment at any time regarding an amount of tax credit, tax holiday or tax benefit overpayment.

More specifically, the tax legislation will be amended to stipulate, for the purposes of tax credits for businesses,[84] tax holidays and any other benefit, that the amount of an overpayment of tax credit for businesses, of tax holiday or of other benefit to a taxpayer regarding income tax, the tax on capital or the employer contribution to the Health Services Fund, can be recaptured by Revenu Québec at any time by means of a special tax when it is advised of a revocation by the organization that issued the eligibility certificate that gave rise to such tax credit, tax holiday or other benefit, where such a special tax is not currently provided for, for the purposes of a given fiscal measure.

This change will apply to certificates revoked by an organization after the day of this Budget Speech.

2.9.4 International financial centres

The international financial centres (IFC) program is designed to encourage the establishment, development and maintenance within the territory of Ville de Montréal of businesses specializing in international financial transactions.

Briefly, an IFC is a business or part of a business established in Montréal, all of whose activities pertain to qualified international financial transactions (QIFT). A QIFT is defined as a financial transaction carried out on foreign financial markets, or on domestic financial markets for foreign clients.

An IFC business can be carried on through a corporation or a partnership and the benefits stipulated in the legislation regarding the operations of an IFC include, in particular, a partial exemption from income tax, the tax on capital, and the employer contribution to the Health Services Fund.

☐ Renewal of the government's commitment

The existence of a strong financial sector is important to Québec's economic development. The financial sector consolidates many decision-making levers, facilitates recruitment and retention of the highly qualified workers needed for many financial activities, fosters the creation of financial products adapted to Québec's client base and makes it possible to better respond to the financing needs of corporations.

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[84] For greater clarity, these rules will also apply to the refundable tax credit for major employment-generating projects introduced in this Budget Speech.

To support the city of Montréal as an international finance centre, the government is renewing its commitment to maintain, until at least 2008, the tax benefits granted to IFC operators.

In recent years, the financial sector has been characterized by the rapid evolution and sophistication of products and services. Since the city of Montréal already has the prerequisites for developing a financial risk management industry, the government, in concert with the stakeholders concerned, will study over the coming months the relevance of focusing the efforts of the IFC program on the growth role of financial risk management and will review, where applicable, the mission of IFC Montréal, the organization in charge of its promotion.

❑ Adjustment of the determination formula

The March 30, 2004 Budget Speech contained numerous adjustments to the measures of the IFC program to refocus it on its initial objectives. One such adjustment was designed, in particular, to facilitate the determination of the IFC part of an operator's business by introducing a formula for determining the IFC part of the business (determination formula). An adjustment was made to this formula in Information Bulletin 2004-11 of December 22, 2004.

To better adapt the determination formula to the specific case of an IFC business carried on through a partnership and remedy the technical difficulty that could arise when losses are incurred, a further adjustment and a clarification will be made in regard to this formula.

Conceptually, the determination formula consists of two components, namely, a ratio established using the salaries and gross income of the operator, not including gross interest income, and a base determined, for the purposes of income tax, using the adjusted net income of the operator and consisting essentially of its net tax income determined excluding non-taxable income and investment income.

For illustration, the determination formula for income tax is as follows:

$$\begin{array}{c}\text{Adjusted}\\ \text{net}\\ \text{income}\end{array} \times \frac{1}{2}\left[\frac{\text{Gross income from the operations of an IFC}}{\text{Total gross income}} + \frac{\text{Salaries attributable to the operations of an IFC}}{\text{Total salaries}}\right]$$

More specifically, following the change introduced on December 22, 2004, the expression “adjusted net income” is defined as the net tax income of the operator of an IFC otherwise determined for the taxation year, excluding the following items:

— any dividend income;

— any interest income that is property income, net of interest expenditures directly attributable thereto;

— any net capital gain;

— any other income giving rise to a deduction in the calculation of taxable income of the operator;

and reduced by the amount of any charitable donation made by the operator during the taxation year.

In addition, following the change introduced on December 22, 2004, the expression "gross income" is defined as the gross income of the taxpayer or of the partnership, as the case may be, excluding any interest income that is property income for the operator, any dividend income and any capital gain or loss of the operator.

- **Specific case of a participation in a partnership**

Given, on the one hand, that the point of departure for calculating the adjusted net income of an IFC operator is its net tax income otherwise determined and, on the other, that income derived from a participation in a partnership is income that is included in the net tax income otherwise determined, it should be noted that income derived from participation in a partnership[85] of an IFC operator[86] is, in the absence of a specific adjustment, included in the base of the determination formula of such operator.

Therefore, under the existing rules, the base of the determination formula, i.e. the adjusted net income of an IFC operator, includes any income of the operator derived from its participation in a partnership.

In addition, different calculation rules apply for one of the parameters of the ratio of the determination formula, namely, total gross income. On the fiscal level, the gross income of a partnership is not allocated to the associates, since only the net income of the partnership is allocated in this way. Consequently, the ratio of the determination formula, one of whose parameters is the total gross income of an IFC operator, does not include the share of the operator in the gross income of a partnership of which it is a member.

Accordingly, under the existing rules, while the base of the determination formula, which consists of the operator's adjusted net income, includes the net income of the operator that is derived from its participation in a partnership, the second component of the determination formula, i.e. the ratio, which consists in part of the operator's total gross income, does not include the share of the operator in the gross income of a partnership of which it is a member.

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[85] Regardless of whether or not this partnership is also an IFC operator

[86] For greater clarity, in cases where the operator of an IFC is a partnership, the calculations are carried out in respect of this partnership and the same principles apply if such partnership operating an IFC is itself a member of a partnership.

Consequently, the two components of the determination formula, namely, the base and the ratio, entail a conceptual asymmetry. Such asymmetry is likely to lead to a distortion of the results in relation to the objective of the determination formula. To remedy this situation, a change will be made to the determination formula.

More specifically, the definition of the expression "adjusted net income" will be changed to eliminate any income derived from a participation in a partnership of which the taxpayer is a member.

Accordingly, the expression "adjusted net income" will mean the net tax income of the operator of an IFC otherwise determined for the taxation year, excluding the following items:

- any dividend income;
- any interest income that is property income, net of interest expenditures directly attributable thereto;
- any net capital gain;
- any income derived from a participation in a partnership;
- any other income giving rise to a deduction in the calculation of taxable income of the operator;

and reduced by the amount of any charitable donation made by the operator during the taxation year.

• Concept of loss in respect of an IFC

In general, according to the fiscal policy regarding IFCs, income derived from the operation of an IFC is only partially taxable and, similarly, the loss entailed by the operation of an IFC is only partially deductible. However, in order to achieve this objective of the fiscal policy, it is necessary to determine an amount representing a loss entailed by the operation of an IFC.

Moreover, as explained above, the point of departure for the calculation of the adjusted net income or the adjusted net loss, as the case may be, of an operator of an IFC is the net tax income of this operator otherwise determined.

However, according to the tax legislation, the calculation of a taxpayer's net tax income cannot result in an amount that is less than zero. Thus, under the existing tax rules, the concept of net tax loss otherwise determined, as opposed to that of net tax income otherwise determined, does not exist. Accordingly, in practice, it is not possible, under existing rules, to determine an amount representing a loss entailed by the operation of an IFC.

In order to correct this technical anomaly, a clarification will be made to the legislation to ensure that, for the purposes of the calculation of the adjusted net income or the adjusted net loss, as the case may be, the net tax income of a taxpayer otherwise determined may be less than zero.

- **Application date**

These changes will apply retroactively to the coming into force of the determination formula, i.e. in respect of a taxation year or a fiscal year beginning after March 30, 2004.

2.9.5 Capital gains exemption for the establishment of a servitude

A lifelong exemption of $500 000 in capital gains is provided for in respect of gains deriving from the disposition of qualified farm property. Due to the 50% income inclusion rate for capital gains, up to $250 000 of taxable capital gains may thus be exempt from tax.

Moreover, in general, capital gains realized on the disposition of a principal residence are fully exempt from income tax.

For the purposes of these exemptions, the gain realized on the disposition of an immoveable may be exempt. In fact, the disposition of land used as part of an agricultural operation and the disposition of land on which a principal residence is situated, or of the contiguous land that is reasonably necessary for the use and enjoyment of this principal residence, may give rise to a capital gains exemption for qualified farm property or for a principal residence.

However, a real servitude may be established in respect of such immoveables. Briefly, a servitude is a charge imposed on an immoveable (the servient land) in favour of another immoveable (the dominant land) belonging to a different owner. Under this charge, the owner of the servient land is required to tolerate certain acts of use by the owner of the dominant land (right of passage, drilling or view, for example), or himself abstain from exercising certain rights inherent in ownership (construction or wood cutting, for example).

However, although the establishment of a real servitude affecting an immoveable gives entitlement to proceeds of disposition, the gain resulting from this disposition does not give rise to a capital gains exemption for qualified farm property or to a capital gains exemption for a principal residence. In fact, the servitude constitutes property that is separate from the immoveable it affects, and is therefore not part of this immoveable. Thus, the granting or establishment of a servitude does not constitute the disposition of a part of the immoveable, but rather the disposition of property constituted by the servitude itself.

Although this application reflects the rules of Québec civil law, it would appear desirable that the gain resulting from the disposition of a servitude affecting an immoveable should also give rise to a capital gains exemption. Indeed, theoretically speaking, the establishment of a real servitude affecting an immoveable can be likened to a partial disposition of this immoveable.

Accordingly, in order that the gain resulting from the disposition of a real servitude affecting an immoveable may also give rise to a capital gains exemption, a legislative amendment will be made.

More specifically, the tax legislation will be amended to stipulate that the gain resulting from the establishment of a real servitude affecting an immoveable may give rise to a capital gains exemption for qualified farm property or a capital gains exemption for a principal residence, where the immoveable concerned satisfies the criteria for qualified farm property or a principal residence.

This change will apply in respect of a real servitude established after the day of this Budget Speech.

2.9.6 Concordant changes for the purposes of the deduction for eligible rebate

A taxpayer who is a member of an eligible cooperative during a taxation year of such cooperative and who receives an eligible rebate consisting of a preferred unit during a taxation year may claim a deduction in calculating his taxable income for such taxation year (deduction for an eligible rebate). The taxpayer may then defer the tax on the value of such preferred unit until the time of its disposition.

In order for a member of an eligible cooperative to claim the deduction for an eligible rebate, the cooperative must hold an eligibility certificate issued by the ministère du Développement économique, de l'Innovation et de l'Exportation (MDEIE).

Moreover, eligible cooperatives for the purposes of the deduction for an eligible rebate are also eligible cooperatives for the purposes of the Cooperative Investment Plan (CIP). Thus, the notion of eligible cooperative has been defined, for the purposes of the CIP, as part of the reform of this plan announced in the Budget Speech of March 30, 2004.[87] On the same occasion, a concordant change was made to the notion of eligible cooperative for the purposes of the deduction for an eligible rebate, in order to standardize the notions of eligible cooperatives for the purposes of the support measures for the cooperative community.[88]

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[87] *2004-2005 Budget Speech, Additional Information on the Budgetary Measures*, section 1, subsection 2.2.3.

[88] Ibid., subsection 2.2.4.

However, the notion of eligible cooperative was changed on December 22, 2004 for the purposes of the CIP, without a corresponding change having been made to this notion for the purposes of the deduction for an eligible rebate.[89]

In short, a new eligibility criterion relating to legal compliance of the cooperative or federation of cooperatives, as the case may be, was added to the criteria previously established, and the criterion regarding the territoriality of activities was changed where this criterion is applied to a shareholding workers cooperative.

In order to standardize the notions of eligible cooperatives for the purposes of the CIP and for the purposes of the deduction for an eligible rebate, concordant changes will be made to the notion of eligible cooperative for the purposes of the deduction for an eligible rebate.

☐ New eligibility criterion relating to legal compliance

In general, for the purposes of the CIP, a cooperative or federation of cooperatives must, in particular, comply with the requirements of the *Cooperatives Act* in order to qualify as an eligible cooperative. The tax legislation will thus be amended to stipulate that the MDEIE may refuse to issue, for the purposes of the deduction for an eligible rebate, an eligibility certificate applied for by a cooperative or federation of cooperatives where it has observed, upon examination of the annual report of such cooperative or federation of cooperatives, that the latter has failed to comply with the requirements of the *Cooperatives Act*.

Moreover, the MDEIE may revoke an eligibility certificate issued for the purposes of the deduction for an eligible rebate, where the cooperative or federation of cooperatives has received a request to produce a cooperative adjustment plan or has failed to produce such a plan or to implement it by the assigned deadline.

For greater clarity, a cooperative or federation of cooperatives whose eligibility certificate has been revoked may not obtain a new eligibility certificate before the expiration of a period of 36 months following the date on which the revocation takes effect.

These changes will apply retroactively to December 22, 2004.

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[89] Information bulletin 2004-11 of the ministère des Finances.

❑ Eligibility of shareholding workers cooperatives

Just as shareholding workers cooperatives may be eligible for the CIP, shareholding workers cooperatives that are governed by the *Cooperatives Act* are one of the types of cooperatives that may be eligible for the purposes of the deduction for an eligible rebate, provided that such cooperatives satisfy the criterion regarding the territoriality of activities.

Under this criterion, a cooperative or federation of cooperatives must exercise its general management in Québec, and more than half of the wages paid to its employees must have been paid to employees who, for the purposes of the regulations enacted under section 771 of the *Taxation Act*, are employees of an establishment located in Québec.

As is the case for the CIP, in order to take into account the fact that the holding of shares, by shareholding workers cooperatives, in the corporation that employs their members contributes to the capitalization of this corporation, the criterion regarding the territoriality of activities must, when applied to a shareholding workers cooperative, also apply to the corporation. More specifically:

- the general management of the cooperative and of the corporation that employs its members must be exercised in Québec;
- over half of the wages paid to the employees of the corporation that employs the members of the cooperative and, where applicable, to the employees of the legal persons with which the corporation is associated, must have been paid to employees who, for the purposes of the regulations enacted under section 771 of the *Taxation Act*, are employees of an establishment located in Québec.

For greater clarity, any shareholding workers cooperative that applies for an eligibility certificate for the purposes of the deduction for an eligible rebate must send the MDEIE an attestation signed by two directors of the cooperative certifying that the criterion regarding the territoriality of activities – as newly formulated – is complied with.

These changes will apply to applications for eligibility certificates regarding a taxation year of a cooperative ending after March 30, 2004.

2.9.7 Deductibility of certain expenditures related to the use of part of an individual's domicile as a private reception residence

In general, an individual, or a partnership of which an individual is a member, may deduct, when calculating its business income for a taxation year or a fiscal year, as the case may be, the expenditures related to the use of part of that individual's domicile in the carrying on of a business (work space). However, a limit of 50% applies for the purposes of the deduction of some of these expenditures.

Thus, the deduction is limited to 50% of the amount of these expenditures where, to a considerable extent, they are incurred by an individual for personal purposes, given that they relate to the costs incurred by that individual to maintain a domicile. Such expenditures comprise the portion of maintenance and repair expenditures, rental costs, interest on a mortgage loan, school and property taxes, and insurance and depreciation premiums that relate both to the work space and to the part of the domicile that is used for personal purposes.

However, the limit of 50% does not apply to expenditures relating to the work space rather than to the domicile itself, in particular the portion of the heating and lighting expenses attributable to the work space.

Moreover, in a case where a business consists in the operation of a lodging establishment that is a tourist home, bed and breakfast establishment or participating establishment in a hospitality village, the limit of 50% does not apply. Accordingly, the expenditure related to the part of the domicile that is used to operate such a lodging establishment may be deducted in full.

Thus, in order to foster tax fairness among the various businesses in the home lodging sector, the tax legislation will be amended to stipulate that private reception residences are not subject to the limit of 50% applicable to the deduction of certain expenditures related to the use of part of an individual's domicile in the carrying on of a business.

This change will apply to a taxation year ending after the day of this Budget Speech.

2.9.8 Issuing of an eligibility certificate for the purposes of the refundable tax credit for on-the-job training periods

The refundable tax credit for on-the-job training periods encourages young people to upgrade their professional qualifications and supports the efforts of businesses that help develop their skills.

Briefly, a taxpayer can, under certain conditions, claim a refundable tax credit for an on-the-job training period when a student completes an eligible training period in a business he carries on in Québec or that a partnership of which he is a member carries on in Québec (eligible employer). The rate of this tax credit is 30% if the eligible employer is a corporation and 15% in other cases.

Furthermore, the maximum amount of the tax credit with regard to training periods completed in remote resource regions was doubled in the March 30, 2004 Budget Speech.

The current legislation stipulates that an eligible employer must obtain a certificate from the ministère de l'Emploi et de la Solidarité sociale where the eligible training period is covered by a program administered by this department, namely the on-the-job training program, instituted under the *Act respecting manpower vocational training and qualification*, or the apprenticeship scheme implemented under the *Act to foster the development of manpower training*.

Pursuant to an agreement concluded with the Québec government, the Kativik Regional Government is mandated to administer and provide manpower development and training programs in the Kativik region.

Consequently, an amendment will be made to the *Taxation Act* such that, as of the day of this Budget Speech, the Kativik Regional Government may also issue a certificate to an eligible employer regarding a training period covered by the on-the-job training program or by the apprenticeship scheme, within the limits allowed by the *Act respecting Northern villages and the Kativik Regional Government*.

3. MEASURES CONCERNING CONSUMPTION TAXES

3.1 Fuel tax refund to public carriers in respect of biodiesel fuel

Under the fuel tax system, diesel fuel is usually taxable, regardless of whether it is derived from petroleum or other sources. Biodiesel fuel is thus subject to the fuel tax.

However, since this renewable fuel can reduce polluting emissions and help to cut greenhouse gases, measures should be taken to foster the use of biodiesel fuel in Québec, particularly in circumstances likely to improve air quality in urban centres.

Thus, public carriers, whose services contribute substantially to curbing air pollution in the cities they serve, will be entitled to claim a full refund of the fuel tax they pay on the biodiesel fuel they acquire.

To this end, the fuel tax system will be changed to increase the current refund rate of the fuel tax paid in respect of fuel used to supply the engines of buses used for public transit from 33.33% to 100% in the case of biodiesel fuel, regardless of whether or not the latter is mixed with another type of fuel at the time it is acquired by the public carrier.

For the purposes of this measure, the term "biodiesel fuel" will mean oxygenated ester- or ether-based fuel, derived from vegetable oils or animal fat.

This measure will apply to biodiesel fuel acquired by a public carrier after the day of this Budget Speech.

3.2 Reduction in the time allowed for remitting amounts collected as fuel tax and tobacco tax

Under the fuel tax and tobacco tax systems, retailers of such products must, as mandataries of Revenu Québec, collect the fuel and tobacco taxes from their customers at the time the products are sold and remit the amounts thus collected to Revenu Québec, by filing a return to that effect no later than the end of the month following the month in which the products were sold.

However, these tax systems provide for an advance collection mechanism under which amounts may be collected as fuel tax and tobacco tax before the retail sale is made; as a result, a limited number of mandataries become responsible for remitting to Revenu Québec all amounts payable as fuel tax and tobacco tax, no later than the last day of the month following the month in which they were thus collected.

Because of the time between the moment when the limited number of mandataries collect amounts as fuel tax and tobacco tax and the moment when they are required to remit the amounts to Revenu Québec, the mandataries can keep large amounts of tax for an average of 45 days.

However, these amounts could be remitted to Revenu Québec more rapidly, given, moreover, that Québec is the province where mandataries have the most time in which to remit the fuel and tobacco tax collected.

In this context, changes will be made to the fuel tax and tobacco tax systems to require mandataries that must collect amounts payable as fuel tax and tobacco tax on the sale of their products to remit these amounts to Revenu Québec no later than the fifteenth day of the month following the month of the sale.[90]

These changes will apply to the amounts payable as fuel tax and tobacco tax collected or to be collected by mandataries, as of the first day of the month following the month of this Budget Speech.

Moreover, in the coming months, Revenu Québec will make adjustments to the working capital advances it grants to certain fuel wholesalers under an administrative policy, to take into account the impact, on the liquid assets of mandataries, of the reduction in the time allowed for remitting amounts collected as fuel tax and tobacco tax.

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[90] Changes to that end will be made to the provisions of the fuel tax system providing that persons must remit to Revenu Québec, otherwise than as mandataries, their fuel tax payable no later than the last day of the month following the month in which the tax was payable.

4. OTHER MEASURES

4.1 Ajustment and clarification regarding the public utilities tax

In general, municipalities collect a property tax on immovables located in their territory. To that end, they draw up a property assessment roll by establishing the value of these immovables and this roll is used to calculate the property tax.

However, for reasons of practicality and fairness, immovables that are part of a telecommunications network,[91] a natural gas distribution network or an electrical power production, transmission or distribution network are excluded from the regular system and subject to an alternative system. Under this alternative system, the operator of any of these networks was required, before January 1, 2005, to pay to Revenu Québec, as property tax, a tax calculated on the income from the operation of the network (TGE).

The March 30, 2004 Budget Speech announced an extensive reform of the TGE tax base to bring it more in line with what would be used under the regular property tax system. Consequently, the TGE was eliminated and replaced by the public utilities tax (PUT), effective as of January 1, 2005.

Accordingly, a person, partnership or trust that, during a calendar year, operates a telecommunications network, a natural gas distribution network or an electrical power production, transmission or distribution network some of whose immovables are not carried to the property assessment roll must pay the PUT, for that calendar year, as property tax on such immovables.

Briefly, the PUT is calculated based on the net value of the assets that are part of the exterior portion of the network and that are located in Québec, determined at the end of the operator's last fiscal year ending in the calendar year preceding the year of liability for the PUT.

The rate of the PUT, for a calendar year, depends on the activity sector and the amount of the net value of the assets that are part of the network. More specifically, the PUT rate and the thresholds of the net value of assets on the basis of which this rate varies, as they were announced on March 30, 2004 and modified on June 30, 2004,[92] are given in the following table.

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[91] For greater clarity, a telecommunications network includes a cable distribution network.

[92] Information Bulletin 2004-6 of the ministère des Finances.

TABLE 1.6

PUT RATES
Activity sectors and thresholds of net value of assets

Activity sectors	Thresholds of net value of assets	
	First $750 million	Amount in excess of $750 million
Telecommunications	0.7 %	18 %
Electricity	0.2 %	0.55 %
Natural gas	0.75 %	1.5 %

❑ Adjustment of PUT rates regarding a telecommunications network

One of the chief factors prompting the overhaul of the TGE is the growing disparity between its tax base and the value of a telecommunications network. The PUT was not introduced with the objective of increasing the burden on this sector. The higher rate of 18% applicable to a telecommunications network is too high because it leads to that result. To restore the PUT to the level of the TGE it replaces, the 18% rate will be reduced to 10.5% as of the 2005 taxation year.

For greater clarity, all the other application details of the PUT will remain unchanged.

❑ Clarification regarding exempt corporations

As indicated above, the TGE was eliminated and replaced by the PUT, which took effect on January 1, 2005. In this context, corporations that were subject to the TGE are now subject to the PUT.

Moreover, the PUT is to be incorporated into the *Taxation Act*. However, certain corporations are exempt from income tax, and some even from both income tax and tax on capital.

For greater clarity, such exemptions from income tax and, where applicable, from tax on capital, will not apply to the PUT even though it is to be incorporated into the *Taxation Act*.[93]

Thus, a government corporation that was previously subject to the TGE is now subject to the PUT, even if it is exempt from income tax.[94]

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[93] Consequential amendments will be made, as necessary, to the incorporating acts of such exempt corporations.

[94] This clarification regarding exempt corporations does not apply to the specific case of operating municipalities, which, as indicated in the Budget Speech of March 30, 2004, are not subject to the PUT.

This clarification applies as of the introduction of the PUT, that is, as of January 1, 2005.

4.2 Easing of requirements for investment by tax-advantaged funds

Since the creation of the Fonds de solidarité des travailleurs du Québec, of Fondaction—the Fonds de développement de la Confédération des syndicats nationaux pour la coopération et l'emploi—and of Capital régional et coopératif Desjardins, the government has supported the mission of these investment corporations by allowing them to collect capital enjoying a tax benefit in the form of a non-refundable tax credit for individuals who acquire their shares.

The financing of these corporations being facilitated by the granting of a tax benefit, investment requirements have been included in the acts under which they were constituted to ensure, notably, that the funds collected are used as a financing tool to foster the growth of Québec entities.

Each of the acts under which these investment corporations were constituted stipulates in particular that, in the course of each fiscal year, the proportion of investments made in eligible entities by the corporation concerned, entailing no security or hypothec, must represent, on average, at least 60% of its average net assets for the previous year.

If the corporation fails to comply with this investment requirement, referred to hereinafter as the "60% requirement," it incurs a sanction.

To ensure that the 60% requirement is better adapted to the capital needs of Québec businesses, various amendments will be made to the *Act to establish the Fonds de solidarité des travailleurs du Québec (F.T.Q.)*, the *Act to establish Fondaction, le Fonds de développement de la Confédération des syndicats nationaux pour la coopération et l'emploi* and the *Act constituting Capital régional et coopératif Desjardins*.

❑ Investment requirements imposed on labour funds

• Size of eligible Québec businesses

For the purposes of the 60% requirement imposed on the Fonds de solidarité des travailleurs du Québec, an eligible Québec entity is an actively operating entity,[95] the majority of whose employees reside in Québec, and whose assets are less than $50 million or whose net equity does not exceed $20 million.

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[95] Either a company or a partership pursuing economic objects.

The size of the entities in which the Fonds de solidarité des travailleurs du Québec may make investments, for the purposes of the 60% requirement, will be increased, for any fiscal year of the corporation that begins after the day of this Budget Speech, in order to target Québec entities whose assets are less than $100 million or whose net equity is below $50 million.

For the purposes of the 60% requirement imposed on Fondaction, an eligible Québec entity is an actively operating entity,[96] the majority of whose employees reside in Québec, and whose assets are less than $100 million or whose net equity is no more than $40 million. However, under this requirement, the proportion of Fondaction's investments in eligible entities, entailing no security or hypothec, must represent, on average, at least 60% of Fondaction's average net assets for the previous year, of which a part representing at least two-thirds of this minimum percentage must be invested in entities whose assets are less than $50 million or whose net equity does not exceed $20 million.

The size of the entities in which Fondaction may make investments, for the purposes of the 60% requirement, will be increased, in any fiscal year of the corporation that begins after the day of this Budget Speech, in order to target Québec entities whose assets are less than $100 million or whose net equity is below $50 million.

In addition, the 60% requirement imposed on Fondaction will be changed, for any fiscal year of the corporation that begins after the day of this Budget Speech, in order to eliminate the requirement under which at least 40% of the corporation's average investments must be made in eligible entities whose assets are less than $50 million or whose net equity is no more than $20 million.

• Investments outside Québec

Currently eligible for the purposes of the 60% requirement are investments made by labour funds in an entity whose activity outside Québec has or will likely have an impact on the raising or maintenance of the level of employment or economic activity in Québec, in the cases and to the extent provided for in a policy adopted by their board of directors and approved by the Minister of Finance.

Investments in new or substantially renovated immovable property[97] from which income is derived are also eligible for the application of this requirement, to a maximum of 5% of the net assets of the labour fund. These investments may be made in immovable property outside Québec, provided they meet the same requirements as those imposed on investments in businesses outside Québec.

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[96] Ibid.

[97] Other than immovable property located in Québec and intended primarily for use as a commercial centre, unless it is in conjunction with a project in the recreational tourism sector.

Thus, the 60% requirement imposed on labour funds encourages them to make outside investments that generate economic benefits for Québec. However, it does not promote investments that could be conducive to injecting private foreign capital into Québec businesses, attracting job-creating projects and upgrading Québec manufacturing activities.

To better circumscribe investments outside Québec that could in future be made by labour funds, various changes will therefore be made to their investment requirement.

More specifically, all investments outside Québec made by labour funds eligible for the purposes of the 60% requirement regarding a given fiscal year will be limited to 10% of the fund's net assets at the end of the previous fiscal year.

To that end, provided they are made in accordance with an investment policy adopted by the board of directors of a given labour fund and approved by the Minister of Finance, the following are the investments[98] made outside Québec that, in the cases and to the extent provided for in the investment policy, may be taken into account for the purposes of calculating the 60% requirement imposed on labour funds for a given fiscal year:

— any investment in a given private fund outside Québec, unless the given fiscal year is subsequent to the year following the year in which an initial investment[99] was made in the private fund in accordance with such an investment policy, in which case any investment made in the private fund, up to the amount which, after the initial investment, is invested[100] by the private fund in a company or partnership actively carrying on a business, the majority of whose employees are resident in Québec and whose assets are less than $100 million or whose net equity is below $50 million;

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[98] Entailing no security or hypothec.

[99] The initial investment made by a labour fund in a private fund outside Québec during a given fiscal year will be considered to be the initial investment made in that fund, where, at the end of the previous fiscal year, the labour fund had no investments in the private fund or had not agreed to make an investment in it for which amounts were committed.

[100] For greater clarity, the amounts invested do not include amounts committed that have not been disbursed.

- any investment made after the day of this Budget Speech in a given company or partnership outside Québec whose assets are less than $500 million or whose net equity is below $200 million,[101] without exceeding the amount which, following the initial investment made—after the day of this Budget Speech—in the given company or partnership in accordance with such a policy, is invested[102] by the company or partnership in one of its Québec affiliates or in a major investment project it carries out in Québec;

- any investment in a given entity[103] whose activity outside Québec has or will likely have an impact on the raising or maintenace of the level of employment or economic activity in Québec;

- any investment in new or substantially renovated immovable property located outside Québec from which income is derived, provided the investment has or will likely have an impact on the raising or maintenance of the level of employment or economic activity in Québec, without exceeding the amount by which 5% of the net assets of the labour fund at the end of the previous fiscal year exceeds any eligible investment otherwise made in an immovable located in Québec.

These changes will apply to a given labour fund as of the fund's fiscal year during which the Minister of Finance approved its new policy for investment outside Québec.

For greater clarity, as of the date on which a labour fund's new policy for investment outside Québec is approved by the Minister of Finance, only Québec entities will be considered eligible entities for the purposes of the 60% requirement imposed on such funds.

Approval by the Minister of Finance of a labour fund's policy for investment outside Québec is valid for a maximum of five years after the day on which approval is given. However, if the Minister of Finance sees that the policy for investment outside Québec he approved regarding a given labour fund is not complied with, he may withdraw his approval by sending the fund a written notice informing it that approval is withdrawn as of the date indicated on the notice.

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[101] The assets or net equity of a company or partnership outside Québec will be the assets or net equity shown in its financial statements for its fiscal year ended before the date of the investment, less the write up surplus of its property and intangible assets. In the case of a company or partnership that has not completed its first fiscal year, a chartered accountant must write to the labour fund to confirm that, immediately before the investment, the company's or partnership's assets or net equity, as applicable, was below the limits established.

[102] *Supra*, Note 100.

[103] *Supra*, Note 95.

• Investments in local venture capital funds

According to recent observations on Québec's venture capital industry, while venture capital supply seems to be sufficient for certain growth businesses, there are shortfalls in the financing chain for pre-startup or startup businesses, or for businesses in such sectors as biotechnology and information technology.

In this context, a new investment category will be eligible for the purposes of the 60% requirement imposed on labour funds. The category will group investments[104] made after the day of this Budget Speech in local venture capital funds whose primary mission is to make investments in Québec businesses,[105] provided the investments are made in accordance with an investment policy adopted by the board of directors and approved by the Minsiter of Finance.[106]

To encourage labour funds to invest in such local funds, each dollar thus invested will be matched, for the purposes of the 60% requirement, by an investment equivalent to 1.5 times that amount.

In addition, investments in local venture capital funds covered by the investment policy, which a labour fund agrees to make and to which the fund commits amounts that are not yet disbursed at the end of a given fiscal year, hereinafter called "amounts committed," will be considered eligible investments. For greater clarity, these investments will not be included in the calculation of the allowable 12% limit applicable to investments not disbursed.

However, regarding the application of the 60% requirement to a given fiscal year, investments (including amounts committed) in local venture capital funds, before any 50% increase, will be allowed only up to 5% of a given labour fund's net assets at the end of the previous fiscal year.

These changes will apply to a given labour fund as of the fund's fiscal year in which the Minister of Finance approves its investment policy regarding local venture capital funds.

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[104] *Supra*, Note 98.

[105] That is, companies or partnerships actively operating a business, the majority of whose members are resident in Québec, and whose assets are less than $100 million or whose net equity is below $50 million.

[106] Approval by the Minister of Finance of a labour fund's policy regarding local venture capital funds is valid for a maximum of five years after the day on which approval is given. However, if the Minister of Finance sees that the investment policy he approved regarding a given labour fund is not complied with, he may, before the expiry of the five-year period, withdraw his approval by sending the fund a written notice informing it that approval is withdrawn as of the date indicated on the notice.

❑ Investment requirements imposed on Capital régional et coopératif Desjardins

• Size of eligible entities

For the purposes of the 60% requirement imposed on Capital régional et coopératif Desjardins, an eligible entity includes a company or partnership that actively carries on a business, the majority of whose employees reside in Québec and whose assets are less than $50 million or whose net equity does not exceed $20 million, other than an eligible cooperative or a company or partnership whose activities as a whole consist primarily in making investments.

The maximum size of the companies or partnerships in which Capital régional et coopératif Desjardins can invest, for the purposes of the 60% requirement, will be increased, for any fiscal year of Capital régional et coopératif Desjardins that begins after the day of this Budget Speech, in order to target companies or partnerships with assets of less than $100 million or net equity below $50 million.

• Major investments

On December 22, 2004,[107] amendments were announced to the incorporating act of Capital régional et coopératif Desjardins to prevent the 60% requirement from limiting the corporation's participation in major projects with a structuring effect on the Québec economy.

More specifically, it was announced that the act would be amended to provide that investments which, at a given time during a fiscal year of Capital régional et coopératif Desjardins, qualify as major investments would be eligible for the purposes of the 60% requirement, to a maximum of 5% of the company's net assets at the end of the previous fiscal year.

In this regard, investments that qualify as major investments at a given time are those made in a company or partnership, including such an entity whose activities as a whole consist mainly in making investments, that are not otherwise eligible for the purposes of the 60% requirement and that consist of an initial capital outlay of at least $25 million, provided the strategic value of the initial capital outlay is recognized by the Minister of Finance.

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[107] Information Bulletin 2004-11 of the ministère des Finances.

It was also announced that investments qualifying as major investments having, in the Minister's opinion, an impact on economic activity in the regions, would be deemed to have been made, for the purposes of the regional component of the 60% requirement imposed on Capital régional et coopératif Desjardins,[108] in an entity located in a Québec resource region.

In addition, it was clarified that, should Capital régional et coopératif Desjardins hold more than one major investment at a given time in a fiscal year, only one of the investments would be considered a major investment at that time for the purposes of the 60% requirement.

To better adapt this measure to the context in which Capital régional et coopératif Desjardins functions, certain rules pertaining to major investments will be replaced.

More specifically, all initial capital outlays[109] of at least $25 million, as well as any additional capital outlay[110] in a company or partnership,[111] will be able to qualify as major investments as long as their strategic value is recognized by the Minister of Finance and they are not otherwise eligible for the purposes of the 60% requirement.

In addition, for the purposes of the application of the 60% requirement to a given fiscal year, all major investments made by Capital régional et coopératif Desjardins may be taken into acount, up to 7.5% of the corporation's net assets at the end of the previous year.

For greater clarity, capital outlays that qualify as major investments will be deemed to have been made in an entity located in a Québec resource region, for the purposes of the regional component of the 60% requirement, if, in the opinion of the Minister of Finance, they have an impact on the economic activity of the regions.

- **Investments in local venture capital funds**

As an important player, like labour funds, in Québec's venture capital industry, Capital régional et coopératif Desjardins will also be able take into account 150% of its participation in local venture capital funds, subject to certain conditions, for the purposes of the 60% requirement imposed on it.

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[108] The 60% requirement imposed on Capital régional et coopératif Desjardins provides that, during each fiscal year, the part of the investments in eligible entities entailing no security or hypothec must represent, on average, at least 60% of the corporation's average net assets for the previous year, and that a part representing at least 35% of that percentage must be invested in eligible cooperatives or in entities located in Québec's resource regions (Abitibi-Témiscamingue, Bas-Saint-Laurent, Côte-Nord, Gaspésie–Îles-de-la-Madeleine, Mauricie, Nord-du-Québec and Saguenay–Lac-Saint-Jean).

[109] *Supra*, Note 98.

[110] Ibid.

[111] Including such an entity whose activities as a whole consist primarily in making investments.

In that regard, the participation of Capital régional et coopératif Desjardins in a local venture capital fund will correspond to the investments[112] it makes, after the day of this Budget Speech, in a local venture capital fund whose primary mission is to make investments in eligible entities,[113] and to the investments[114] it agrees to make after that day for which amounts have been committed but not yet disbursed,[115] provided the investments are in compliance with an investment policy adopted by its board of directors and approved by the Minister of Finance,[116] hereinafter called "recognized investments," up to its interest, determined solely on the basis of recognized investments, in investments made in eligible entities by the local venture capital fund.

However, for the purposes of the application of the 60% requirement to a given fiscal year, Capital régional et coopératif Desjardins' participations as a whole in local venture capital funds, before any 50% increase, will be allowed only to a maximum of 5% of its net assets at the end of the previous fiscal year.

This measure will be applicable as of Capital régional et coopératif Desjardins' fiscal year that begins after the day of this Budget Speech, or as of the fiscal year in which the first policy for investment in local venture capital funds is approved by the Minister of Finance, where the fiscal year begins after December 31, 2006.

For greater clarity, 150% of any allowable participation by Capital régional et coopératif Desjardins in local venture capital funds that is related to eligible entities located in a Québec resource region will be be taken into consideration for the purposes of the regional component of the 60% requirement.

❑ Investments by tax-advantaged funds in FIER-Partenaires, s.e.c.

The regional economic intervention fund (FIER), whose implementation was announced in the March 30, 2004 Budget Speech, is a development fund designed to help businesses obtain financing at the time of their startup and initial development phases, and to support the creation of sectoral funds and the implementation of structuring projects primarily in the regions.

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[112] *Supra*, Note 98.

[113] Within the meaning of the *Act constituting Capital régional et coopératif Desjardins*.

[114] *Supra*, Note 98.

[115] For greater clarity, these investments will not be included in the calculation of the allowable 12% limit applicable to undisbursed investments.

[116] Approval by the Minister of Finance of a policy for investment in local venture capital funds is valid for a maximum of five years after the day on which approval is given. However, if the Minister of Finance sees that the investment policy he approved regarding Capital régional et coopératif Desjardins is not complied with, he may, before the expiry of the five-year period, withdraw his approval by sending the corporation a written notice informing it that approval is withdrawn as of the date indicated on the notice.

FIER comprises three separate components: FIER-Soutien, which is composed of support funds for businesses; FIER-Régions, which is composed of regional investment funds; and FIER-Partenaires, which supports the creation of sectoral development funds and finances structuring projects in the regions.

The FIER-Partenaires component is managed by a limited partnership—FIER-Partenaires, s.e.c.—whose initial capitalization will be provided by the government, Capital régional et coopératif Desjardins, Fondaction and the Fonds de solidarité des travailleurs du Québec.

To acknowledge the contribution of tax-advantaged funds to regional economic development, investments[117] made by such funds in FIER-Partenaires, s.e.c., including investments[118] they agreed to make in the limited partnership and for which amounts have been committed but not yet disbursed,[119] will be considered eligible investments for the purposes of the 60% requirement applicable to them.

In addition, investments made by Capital régional et coopératif Desjardins in FIER-Partenaires, s.e.c. will be deemed to have been made, for the purposes of the regional component[120] of the 60% requirement imposed on the company, in an entity located in a Québec resource region.

4.3 Introduction of a basic salary as the starting point for determining various employer contributions

The *Rapport du Groupe de travail conjoint sur l'administration de la fiscalité*,[121] filed in fall 2003, pointed to the lack of uniformity in the definition of "payroll" in Québec laws as being a major irritant for businesses, which must determine their payroll for each of the applicable laws, using formulas that take into account elements of inclusion, exclusion and exception.

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[117] *Supra*, Note 98.

[118] Ibid.

[119] *Supra*, Note 115.

[120] *Supra*, Note 108.

[121] Ministère du Revenu du Québec, *Rapport du Groupe de travail conjoint sur l'administration de la fiscalité*, October 2003. The joint task force, created in June 2002, was mandated to propose concrete measures for simplifying the application of the Québec tax system for businesses.

Further to the tabling of the report, the ministère des Finances undertook, in collaboration with the departments and agencies concerned, to define a basic salary to be used as the starting point for determining the contributions payable by employers under each of the laws concerned, on the basis of their respective objectives. That undertaking stems from the mandate to explore certain avenues conducive to simplifying taxation that was entrusted to the Minister of Finance, and is in keeping with the government's policy on regulatory streamlining.[122]

To that end, the specificities of the laws concerned—the *Act respecting industrial accidents and occupational diseases*, the *Act to foster the development of manpower training*, the *Act respecting labour standards*, the *Act respecting the Régie de l'assurance maladie du Québec*, the *Act respecting the Québec Pension Plan* and the *Taxation Act*, in regard to the compensation tax payable by financial institutions—were reviewed in order to determine their relevance and, where applicable, the possibility of abandoning them in favour of greater uniformity.

The analysis of the specificities of these laws, in particular as regards the rules governing liability for the tax, showed that the specificities are justified by the objectives sought by the laws or by the desire to prevent the erosion of the base used to calculate contributions. Moreover, many of these specificities limit the contributions payable by employers because they circumscribe the salaries subject to them.

As an example, the salary to be taken into account in establishing the contribution payable to the Commission de la santé et de la sécurité du travail (CSST), in regard to an employee, is subject to a maximum amount.[123] Consequently, a worker's gross salary used to calculate income replacement indemnities paid by the CSST cannot exceed that amount.

For its part, the salary used to calculate the contribution to the Québec Pension Plan (QPP) for a given year cannot exceed the maximum pensionable earnings for the year[124] and does not include all amounts paid to an employee before the age of 18. These specificities are justified by the fact that the retirement pension payable to a worker under the QPP takes into account the pensionable earnings registered in the worker's name in the Record of Contributors before the start of the contribution period.[125]

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[122] Government of Québec, *Simplifier la vie des entreprises pour créer plus d'emplois et de richesse – Briller parmi les meilleurs – Plan d'action du gouvernement du Québec en matière d'allègement réglementaire et administratif*, August 2004.

[123] This ceiling corresponds to the maximum annual insurable amount, which is $56 000 for 2005.

[124] The amount of maximum insurable earnings, for the purposes of QPP contributions, is $41 100 for 2005.

[125] The contribution period for all individuals, whether they work or not, begins the month following their 18th birthday, or on January 1, 1966 in the case of individuals who were 18 before that date.

Moreover, to follow through on the social security agreements concluded by the Québec authorities with certain foreign authorities, the salary paid to certain people working abroad must be taken into account in the calculation of the contribution payable to the QPP or the Health Services Fund, while the salary paid to certain employees posted to Québec must be excluded from the calculation.

On the basis of these few examples, it is more than clear that the specificities of the laws concerned are justified and, consequently, must be kept.

That said, it is nonetheless possible to work toward greater uniformity by defining a basic salary to be referred to by these laws in calculating the employer contributions payable under them.

The *Taxation Act* will therefore be amended to incorporate the concept of a basic salary, called "basic salary paid in regard to an individual," which will be defined as the total amounts paid by the employer, in regard to an individual, trustee or custodian, as applicable, under a profit-sharing plan, an employee trust or an employee benefit plan, and the following amounts:

— any amount remitted by the employer[126] that must be included in the calculation of income from the office or employment of the individual,[127] or that should be included if the individual were subject to the *Taxation Act*;

— the value of the taxable benefit derived from exercising an option, conferred by the employer, to purchase securities other than the shares of a Canadian-controlled private corporation, where the individual on whom the benefit is conferred chooses to defer taxation to the year in which the securities are to be disposed of or traded;[128]

— the amount of tips attributed by the employer to the individual and the tips reported by the individual to the employer.

Consequential amendments will be made to the various laws concerned so that they refer to the "basic salary paid in regard to an individual," while preserving the specificities relating to the objectives sought by the laws. It follows that Revenu Québec will be responsible for interpreting this concept, which will facilitate consistency.

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[126] Including an amount allocated, conferred or paid.

[127] According to chapters I and II of Title II of Book III of Part I of the *Taxation Act*.

[128] For greater clarity, the value of the taxable benefit conferred by the employer will not be taken into account in the year in which the securities are to be disposed of or traded.

For greater clarity, the incorporation of the concept of "basic salary paid in regard to an individual" into the *Act respecting the Québec Pension Plan* will have no impact on the eligible salary on which workers may pay optional QPP contributions.[129]

Moreover, in the past few years, Revenu Québec has taken concrete action to simplify tax administration for businesses. As a result, among other things, it has been possible to develop services for employers and facilitate dissemination of the tax information applicable to them.

In this context, Revenu Québec will be invited to continue its efforts so that the current intervention fully achieves its goal by perceptibly reducing the work employers must put into establishing the salary-based contributions they are required to pay.

These amendments will be effective as of the 2006 calendar year.

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[129] Essentially, employees may, subject to their maximum pensionable earnings for the year, pay an optional QPP contribution on the part of their eligible salary from which no contributions are deducted at source by the employer, such as wage loss insurance benefits from an insurance plan to which the employer paid a contribution.

5. FEDERAL LEGISLATION AND REGULATIONS

5.1 Federal Budget Speech of February 23, 2005

On February 23, 2005, the federal Minister of Finance tabled, in the House of Commons, Supplementary Information, as well as a Notice of Ways and Means Motion to Amend the *Income Tax Act* and a Notice of Ways and Means Motion to Amend the *Excise Tax Act*. In this respect, Québec's tax legislation and regulations will be amended to incorporate some of the measures announced. However, the measures will be adopted only after the approval of any federal law arising from these notices of motion or the adoption of any federal regulation arising from the supplementary information, taking into account technical amendments that might be made prior to the approval of the law or the adoption of the regulation. These measures will be effective on the same dates as for federal income tax purposes.

5.1.1 Measures relating to the Income Tax Act

❏ Measures retained

Québec's tax legislation and regulations will be amended to incorporate, with adaptations based on their general principles, the measures relating to:

1. the tax credit for a severe and prolonged mental or physical impairment (BR 6),[130] with the exception of the amendments relating to life-sustaining therapy[131] (harmonization of this measure is presented in greater detail in subsection 1.2);

2. the disability supports deduction (BR 7);

3. the increase in the refundable medical expense supplement (BR 8), subject to the details presented in subsection 1.4.2;

4. registered education savings plans, where the beneficiary of the plan is a person with a severe and prolonged mental or physical impairment (BR 9);

5. the addition of certain expenses to the list of eligible expenses for the purposes of the non-refundable medical expense tax credit (BR 11);[132]

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[130] The references between parentheses correspond to the number of the Budget Resolution of the Notice of Ways and Means Motion to amend the *Income Tax Act* tabled on February 23, 2005.

[131] Department of Finance Canada, *The Budget Plan 2005*, pp. 376 and 377. The amendments pertaining to life-sustaining therapy are not retained because Québec legislation is satisfactory in that regard.

[132] Including the regulatory amendments to the list of eligible expenses for the purposes of the non-refundable medical expense tax credit, discussed on page 379 of *The Budget Plan 2005* of the Department of Finance Canada.

6. the provisions of the non-refundable medical expense tax credit pertaining to the eligibility of expenses related to the renovation or alteration of a dwelling (BR 12);[133]

7. emergency medical services vehicles (BR 15);

8. gifts for tsunami relief (BR 17), except as regards the requirement according to which gifts must be made in cash or by cheque, credit card or money order, and subject to a corporation, whose taxation year ends on December 31, 2004, also being able to take advantage of the extension of the deadline applicable to such gifts;

9. the definition of "Canada" for the purposes of the SR&ED deduction (BR 20);

10. all of the amendments pertaining to capital cost allowance respecting certain types of property.[134]

Moreover, although they do not require any legislative or regulatory amendment, the measures relating to the limits applicable to tax-deferred retirement plans (BR 4),[135] and those relating to pension benefits for paramedics,[136] the maximum pension accrual rate for persons in public safety occupations[137] and eligible investments in tax-deferred retirement plans,[138] will also be retained for the purposes of the Québec tax system.[139]

❑ Measures not retained

Some measures were not retained because the Québec tax system does not contain corresponding provisions. This applies to the following measures:

— the foreign property rule (BR 5). However, the consequential amendments made to the provisions of Part I of the *Income Tax Act* further to the repeal of Part XI of that Act, for which equivalent provisions exist in the *Taxation Act*, will be retained;

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[133] Including the regulatory amendments proposed on page 388 of *The Budget Plan 2005* of the Department of Finance Canada.

[134] Department of Finance Canada, *The Budget Plan 2005*, pp. 396 to 404.

[135] See also the regulatory amendments proposed on pages 368 and 369 of the *The Budget Plan 2005* of the Department of Finance Canada.

[136] Department of Finance Canada, *The Budget Plan 2005*, p. 370.

[137] Ibid.

[138] Ibid., p. 371.

[139] As part of the Budget Speech of April 26, 1990, it was announced that Québec's tax legislation and regulations would be amended so that the rules introduced in the reform of tax assistance for retirement savings would be the same as those applicable for federal income tax purposes. Given the level of complexity of the provisions relating to the reform, for individuals, employers and tax administration, it was specified that the federal rules would not be incorporated into Québec's tax legislation and regulations and that the legislative process to be used would refer to them.

- the corporate surtax (BR 18);
- the definition of "Canada" for the purposes of the SR&ED investment tax credit (BR 20).

Other measures were not retained because the Québec tax system is satisfactory in that regard. This applies to the measures pertaining to the basic personal amounts (BR 1 to BR 3), the Child Disability Benefit Supplement (BR 10), the non-refundable medical expense tax credit (BR 13), the adoption expense tax credit (BR 14), agricultural cooperatives (BR 16) and the corporate tax rate reduction (BR 19).

5.1.2 Measures relating to the Excise Tax Act

❑ Measures retained

Changes will be made to the Québec tax system to incorporate, with adaptations based on its general principles, the federal measures relating to the GST/HST health care rebate (BR 2 to BR 10)[140] and directors' liability for GST/HST refunds (BR 11).

❑ Measures not retained

The other federal measures were not retained because the Québec tax system is satisfactory in that regard. This applies to the measures pertaining to the GST/HST Web registry (BR 12) and the new remittance rates for entities and facilities eligible for the GST/HST health care rebate under the *Streamlined Accounting Regulations*.[141]

5.2 News release of December 6, 2004 of the Department of Finance Canada

On December 6, 2004, the federal Minister of Finance announced in a news release[142] a detailed Notice of Ways and Means Motion to implement income tax measures proposed in the Budget Speech of March 23, 2004.[143]

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[140] The references in parentheses correspond to the number of the Budget Resolution of the Notice of Ways and Means Motion to Amend the *Excise Tax Act* tabled on February 23, 2005.

[141] Department of Finance Canada, *The Budget Plan 2005*, p. 407.

[142] News release 2004-075 of Department of Finance Canada.

[143] *A second Act to implement certain provisions of the budget tabled in Parliament on March 23, 2004*, which gave effect to this Notice of Ways and Means Motion, was passed by the House of Commons on February 25, 2005.

The ministère des Finances du Québec announced previously, in the document *Additional Information on the Budgetary Measures* accompanying the March 30, 2004 Budget Speech, the list of measures contained in the Notice of Ways and Means Motion to Amend the *Income Tax Act*, tabled in the House of Commons on March 23, 2004, to be incorporated into Québec's tax legislation and regulations.

More specifically, it was announced that the federal measure concerning the education tax credit would not be retained because there are no corresponding provisions in the Québec taxation system.

However, in the Notice of Ways and Means Motion released on December 6, 2004, the amendments relative to the education tax credit were extended to the rules applicable to registered education savings plans and the lifelong learning plan, for which equivalents exist under the Québec tax system.

Québec's tax legislation and regulations will therefore be amended to incorporate, with adaptations based on their general principles, the federal measure pertaining to registered education savings plans.[144] This measure will be effective on the same dates as for federal income tax purposes.

Moreover, for greater clarity, although it does not require any legislative or regulatory amendment, the federal measure relating to the lifelong learning plan[145] will also be retained for the purposes of the Québec taxation system.

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[144] *A second Act to implement certain provisions of the budget tabled in Parliament on March 23, 2004*, s. 34.

[145] Ibid., s. 33.

Section 2

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1. SOCIAL HOUSING

1.1 Investments of $145 million in the construction of 2 600 social housing units

The 2005-2006 Budget Speech provides for additional investments of $145 million in social housing. Despite the rise in vacancy rates, low-income households still have difficulty finding low-rental housing on the private market. To ensure a sufficient number of social housing units and sustain the construction thereof, 2 600 additional units will be built under the *AccèsLogis Québec* program.

Taking into account last year's budget commitments, a total of 18 600 low-rental and affordable housing units will be made available to low-income households.

As at February 28, 2005, 3 155 of these 18 600 units were completed and occupied, i.e.:

— 1 590 housing units under the *AccèsLogis Québec* program;

— 1 565 housing units under the *Affordable Housing Québec* program.

Furthermore, 8 260 housing units are under construction or at an advanced stage of development.

The 2 600 additional units announced in the 2005-2006 Budget will bring the total number of units to be built under the *AccèsLogis Québec* and *Affordable Housing Québec* programs to 7 185. These units will be gradually distributed to the organizations that apply therefor.

TABLE 2.1

NUMBER OF LOW-RENTAL AND AFFORDABLE HOUSING UNITS

	Housing units delivered	Housing units under way[2]	Projects to come			Total
			Before Budget	2005-2006 Budget (additional)	Subtotal	
AccèsLogis Québec	1 590	3 196	2 144	2 600	4 744	9 530
Affordable Housing Québec						
▪ Social and community component	957	3 048	1 500	–	1 500	5 505
▪ Private component[1]	608	2 016	941	–	941	3 565
Subtotal: affordable housing	1 565	5 064	2 441	–	2 441	9 070
TOTAL	**3 155**	**8 260**	**4 585**	**2 600**	**7 185**	**18 600**

[1] Including the "Kativik" and "Nord-du-Québec" components.

[2] Includes units under construction as well as projects at various stages of development, including those being reviewed by the Société d'habitation du Québec or the municipality concerned.

To make these additional investments, the appropriations of the ministère des Affaires municipales et des Régions earmarked for the Société d'habitation du Québec will be increased by $1 million in 2006-2007 and by $4 million in 2007-2008.

AccèsLogis Québec

The AccèsLogis Québec program enables housing bureaus, housing cooperatives, and non-profit organizations to implement community housing with a minimal contribution from their communities. This housing is offered to low-income households, which pay reduced rent varying between 75% and 95% of the median market rent.

Component 1	Breakdown of construction costs among partners		Percentage of households that receive a rent supplement[1]
Permanent housing for low-income households: families, persons living alone, seniors who live independently, persons with disabilities who live independently	Québec:	50%	20% minimum and 50% maximum that receive a rent supplement
	Community:	15%	
	Developer:	35%	
		100%	

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[1] The rent supplement is an amount of financial assistance intended for low-income households which, without this additional assistance, would have to pay over 25% of their family income in rent.

1.2 Increase of $15 million in the repair and maintenance budget of low-rental housing units

62 884 of Québec's low-rental housing units, which are managed by housing bureaus, are, on average, over 25 years old. The housing bureaus have identified major repairs required by these low-rental housing units, and accelerated spending is called for so that the work required to maintain them in good condition can be carried out.

To further accelerate the renewal of these low-rental housing units, the 2005-2006 Budget Speech provides for a $5-million increase in the repair and maintenance budget for 2005-2006. Taking into account contributions from the federal government and the municipalities, this spending increase by the Québec government will entail additional repair expenditures of $15 million, thereby augmenting the total projected repair budget from $59 million to $74 million in 2005.

The appropriations of the ministère des Affaires municipales et des Régions earmarked for this purpose for the Société d'habitation du Québec will be increased by $5 million in 2005-2006. The appropriations required for 2005-2006 will be drawn from the contingency fund.

2. IMPROVEMENT OF THE HOMEWORK ASSISTANCE PROGRAM

In the 2004-2005 Budget Speech, the government announced a new homework assistance program, with a budget envelope of $10 million.

This program provides assistance to elementary schools that implement projects to:

— boost students' motivation to complete their schoolwork;

— improve the quality of the parent-school relationship;

— heighten community interest in young people's academic success.

An additional amount of $10 million is added in 2005-2006, bringing the annual envelope for this program to $20 million. This $10-million injection is drawn from the budget envelope allocated to the ministère de l'Éducation, du Loisir et du Sport.

3. SUPPORT FOR CULTURE

3.1 Creation of Placements Culture

To ensure stable, long-term funding for organizations in the cultural sector, the 2005-2006 Budget Speech provides for the creation of Placements Culture.

Placements Culture will act as an intermediary between recognized non-profit organizations in the cultural sector[1] and an investment fund manager. Placements Culture will collect private donations made to arts and cultural organizations and their foundations and entrust them to a fund manager, whose task will be to ensure investment management. All organizations that deposit funds with Placements Culture will retain ownership of their assets. To boost funding for these organizations, the government pledges to match the donations entrusted to Placements Culture up to a maximum of $5 million.

Through this initiative, the government and its partners aim to:

- facilitate access to private funding for the cultural sector, particularly in the regions, by matching the amount of private donations made to arts and cultural organizations;
- generate a better return on the sums invested thanks to the pooling of funds;
- reduce administrative costs and simplify the management of donations for small arts and cultural organizations.

The Minister of Culture and Communications will announce the operational details of Placements Culture in the near future.

3.2 Financial support for museums

Additional appropriations of $5 million in 2005-2006 are added to the budget of the Minister of Culture and Communications in order to increase the funding of museums faced with major financial difficulties. These appropriations will be drawn from the contingency fund.

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[1] These organizations and their associated public foundations must be eligible for the purposes of the non-refundable tax credit for gifts to arts organizations or charities.

4. ENHANCED PRODUCTIVITY AND EXPORT DEVELOPMENT

To enhance the productivity of manufacturing SMEs in Québec and develop the export markets of Québec businesses, the government will implement a number of initiatives.

As concerns productivity, the government will provide access to financial assistance enabling businesses to benefit from specialized consulting services. The clientele eligible for this assistance will be made up of businesses with fewer than 200 employees and business networks whose activities are of a strategic nature for their sector of activity. The assistance will apply, in particular, to the following projects:

- development of new products or innovative processes;
- technology transfer;
- improvement of management skills;
- acquisition or protection of intellectual property;
- development of financing strategies;
- realization of investment projects – carrying out of feasibility studies.

In general, the assistance granted will take the form of a non-refundable contribution of up to 40% of eligible project implementation expenditures, to a maximum of $50 000. Government financial assistance may not exceed 50% of all the expenditures inherent to the project. The assistance will cover, in particular, professional fees and research expenses for the acquisition of patents and the protection of intellectual property.

To stimulate exports, the ministère du Développement économique, de l'Innovation et de l'Exportation will implement certain initiatives, in particular:

- support for marketing efforts made by businesses to ensure that Québec products figure on the lists of the decision makers of major North American chains;
- assistance in facilitating the movement of merchandise exports across the US border;
- coaching to direct the initiatives of Québec businesses toward emerging economies.

The details of the financial assistance for export development will be announced at a later date by the Minister of Economic Development, Innovation and Export Trade.

Additional appropriations of $5 million in 2005-2006 and in 2006-2007, earmarked for the support of businesses, will be granted to the ministère du Développement économique, de l'Innovation et de l'Exportation. The appropriations required for 2005-2006 will be drawn from the contingency fund.

5. SUPPORT FOR THE PROOF OF CONCEPT STAGE OF UNIVERSITY RESEARCH FINDINGS

In order to validate university research findings, researchers' discoveries must pass a decisive stage, i.e. proof of concept. Concretely, this stage consists, for researchers, in demonstrating the technical reliability and commercial potential of their inventions.

However, most university research and business stakeholders are of the opinion that there is a funding deficiency with regard to proof of concept, since this stage is too risky to attract private capital. To offset this deficiency, the government is introducing, for the benefit of researchers working in universities and affiliated research centres, a funding program enabling them to validate the commercial potential of their discoveries. This assistance will help:

— increase the number of marketable discoveries;

— interest private investors in a larger number of projects;

— reduce the risk of failure at the project marketing or business creation stage.

The details of this new program will be announced at a later date by the Minister of Economic Development, Innovation and Export Trade.

Additional appropriations of $2 million in 2005-2006 and in 2006-2007 will be granted to the ministère du Développement économique, de l'Innovation et de l'Exportation. The appropriations required for 2005-2006 will be drawn from the contingency fund.

6. SUPPORT FOR REGIONAL DEVELOPMENT

The economic context is evolving rapidly and has a considerable impact on certain sectors of activity. These sectors are thus adversely affected by the competitive climate and the international trade policies to which they are subject. This is particularly true for the forestry, textile and clothing sectors.

The impacts, suffered by businesses, workers and communities alike, are felt all the more keenly when these sectors represent the main source of economic activity of these communities.

In Québec, there are close to 200 single-industry towns, over 40% of which are situated in the resource regions and close to half of which engage in forestry-related activities. When they experience economic difficulties, these communities need help consolidating or making the transition toward other sectors of activity, thereby enabling their workers to find new jobs.

To enable businesses, workers and communities to adapt to these situations, the government is introducing two series of measures to support regional development.

- The government is announcing a series of measures designed to foster the adaptation and diversification of regional economies. All told, these measures will amount to $240 million, $150 million of which will be in the form of budgetary measures, and will be available to the regions over the next three years.
- Further support is provided for the financing and capitalization of regional businesses, thereby making an additional amount of $118 million available to the regions.

TABLE 2.2

FINANCIAL IMPACT OF SUPPORT MEASURES FOR REGIONAL DEVELOPMENT
(millions of dollars)

	2005-2006	2006-2007	2007-2008	Total
Support for regional development				
Budgetary measures				
Improved forest management	– 25	– 25	– 25	– 75
$30-million assistance fund for single-industry towns	– 10	– 10	– 10	– 30
Support for workers in forest-based communities	– 1	– 2	– 2	– 5
Support for social economy business projects in the regions	– 1	– 2	– 2	– 5
Greenhouse industry – use of alternative energy sources	– 3	– 2	—	– 5
Local products	– 2	– 3	– 4	– 9
Investments in nature park infrastructures	—	– 6	– 6	– 12
Tourism in the regions	– 5	—	—	– 5
Development of a network of protected areas	– 1	– 1	– 2	– 4
Subtotal – budgetary measures	**– 48**	**– 51**	**– 51**	**– 150**
Fiscal measures				
Extension of tax credits for processing activities in the resource regions	– 9	– 28	– 53	– 90
Total	**– 57**	**– 79**	**– 104**	**– 240**
Financing and capitalization				
Additional capitalization for FIER – Régions	Capital outlay of $78 million			
Conversion of Innovatech Régions ressources	Capital outlay of $30 million from CRCD			
Innovatech Québec et Chaudière-Appalaches and Innovatech du sud du Québec	Capital outlay of $10 million			

6.1 Funding of priority measures for forest management

To improve forest management, the government is implementing a series of priority measures, including the following:

- access to forest resources in northern regions;
- development of technologies and new products;
- creation of the position of chief forester;
- improvement of the calculation of the annual allowable cut;
- development of knowledge and improved forest inventories;
- support program for forest stakeholders;
- increased support for aboriginal communities to facilitate access to forest resources.

By implementing these measures, the government is following up on several of the recommendations made by the Commission for the study of public forest management in Québec.

To that end, additional appropriations of $25 million in 2005-2006 and in 2006-2007 are granted to the ministère des Ressource naturelles et de la Faune.

6.2 Support for single-industry towns experiencing economic difficulties

To support single-industry towns and communities experiencing economic difficulties, the government is introducing a financial assistance measure of $30 million over three years. This measure will provide financial support for the economic action and recovery plan produced by the stakeholders of the municipalities concerned.

The ministère des Affaires municipales et des Régions will be responsible for supporting the development and implementation of the action plans and coordinating efforts, in conjunction with local economic partners. Moreover, the ministère du Développement économique, de l'Innovation et de l'Exportation will back the economic diversification and development projects of businesses that support and create jobs in these communities.

For this purpose, additional appropriations of $10 million per year will be allocated as of 2005-2006, i.e. $3 million for the ministère des Affaires municipales et des Régions and $7 million for the ministère du Développement économique, de l'Innovation et de l'Exportation. The appropriations required for 2005-2006 will be drawn from the contingency fund.

6.3 Support for workers in forest-based communities

To support workers in forest-based communities, additional financial assistance will be granted for the training of forestry workers and the development of social economy businesses in the region. Training will help boost the number of forestry workers and enhance forest yield.

Moreover, social economy businesses can play an important role in the development of forest-based communities experiencing economic difficulties, by contributing vigorously to job creation in these communities.

To that end, additional appropriations of $1 million in 2005-2006 and $2 million in 2006-2007 will be allocated to the ministère de l'Emploi et de la Solidarité sociale to support forestry training, and additional appropriations of $1 million in 2005-2006 and $2 million in 2006-2007 will be allocated to the ministère du Développement économique, de l'Innovation et de l'Exportation to support social economy businesses. The appropriations required for 2005-2006 will be drawn from the contingency fund.

6.4 FIER-Régions: additional capitalization of $78 million

FIER-Régions is one of the four components of the regional economic intervention fund (FIER). With a budget envelope of $78 million, this component of the FIER is devoted to the creation of regional investment funds.

FIER-Régions invests by matching funds contributed by the private sector. For each dollar the latter invests, FIER-Régions contributes two dollars to the regional fund. The total capital in each fund may not exceed $15 million.

The popularity of the FIER-Régions investment funds with regional investors is such that the budget envelope of $78 million intended for them is no longer sufficient.

To encourage the creation of regional investment funds and ensure that the FIER-Régions funds are adequately capitalized, the envelope earmarked for this component of the FIER will be increased by $78 million. Thus the government's contribution to the FIER-Régions component will double, totalling $156 million.

Taking into account contributions from the private sector, the FIER-Régions funds will allow for investments of $234 million in SMEs established in the regions.

6.5 Conversion of Innovatech corporations into mixed public-private capital corporations

Over the past year, the Innovatech Québec et Chaudière-Appalaches, Innovatech du sud du Québec and Innovatech Régions ressources corporations have begun seeking financial partners so that they can continue investing in Québec SMEs.

As concerns Innovatech Régions ressources, an agreement in principle was reached with Capital régional et coopératif Desjardins (CRCD) and with Desjardins Capital de risque to establish a partnership aimed at converting this corporation into a mixed public-private capital corporation. Thus, the new corporation will be composed of the full portfolio of the Innovatech corporation plus a $30-million capital outlay from the CRCD. This injection of capital will ensure that funds are available to maintain the value of the businesses that are currently part of the portfolio and to finance new projects in the regions.

As for the Innovatech Québec et Chaudière-Appalaches and Innovatech du sud du Québec corporations, the search for partners is in the early stages and continues apace. By the time the process is completed, the sum of $10 million, divided between the two corporations, will be made available so that they can pursue their activities and maintain the value of their investments.

6.6 Encouraging the use of alternative energy sources in the greenhouse industry

To encourage the greenhouse industry to diversify its energy sources and become more energy-efficient, a program will be implemented to develop pilot projects aimed at recovering energy and using alternative energy sources for heating and artificial lighting in greenhouse production. Financial assistance of up to 15% of project costs may be granted.

The details of this program will be announced at a later date by the Minister of Agriculture, Fisheries and Food.

Additional appropriations of $3 million in 2005-2006 and $2 million in 2006-2007 will be granted to the ministère de l'Agriculture, des Pêcheries et de l'Alimentation. The appropriations required for 2005-2006 will be drawn from the contingency fund.

6.7 Support for local products and small-scale alcoholic beverage production

Increased support will be provided to facilitate the marketing of local products and improve the competitiveness of small-scale alcoholic beverage producers.

6.7.1 Action plan for local and niche products

To encourage the development of local and niche products, the government will introduce an action plan comprising several initiatives designed to promote the marketing of these products, including:

- a legislative framework for new labels – "terroir", "fermier" and "artisanal" – and the implementation of control and monitoring systems;
- support for business groups and technical and financial guidance for networks wishing to obtain a reserved designation;
- support for accreditation and certification bodies under the *Act respecting reserved designations*;
- promotion of new labels and designations.

To that end, additional appropriations of $1 million in 2005-2006 and in 2006-2007 will be granted to the ministère de l'Agriculture, des Pêcheries et de l'Alimentation. The appropriations required for 2005-2006 will be drawn from the contingency fund.

6.7.2 Improving the competitiveness of Québec's small-scale alcoholic beverage industry

The government is implementing a support program for the development of small-scale alcoholic beverage production in Québec. This program, which provides temporary financial assistance over a three-year period, has a three-pronged approach:

- support for production to facilitate access to technical guidance, among other things;
- support for processing to facilitate product development and acquiring, among other things, equipment;
- support for marketing with a view to obtaining, for example, specialized training.

The support program will have a structuring effect on this thriving Québec industry by focusing on the components that are key to developing its full potential. The details of this assistance program, as well as the complementary measures necessary to support production, processing and marketing, will be announced at a later date by the Minister of Agriculture, Fisheries and Food.

Additional appropriations of $1 million in 2005-2006 and $2 million in 2006-2007 will be granted to the ministère de l'Agriculture, des Pêcheries et de l'Alimentation. The appropriations required for 2005-2006 will be drawn from the contingency fund.

6.8 Investments in nature park infrastructures

The Société des établissements de plein air du Québec (Sépaq) operates and manages Québec's nature park infrastructures. These parks are a vital component in the supply of tourism products in Québec's regions and provide substantial leverage for their economic development. The infrastructures of these establishments must, however, be modernized and upgraded, in particular to satisfy current environmental standards. In this respect, the Sépaq plans to invest $22 million over the next two years.

To that end, additional appropriations of $6 million per year will be granted as of 2006-2007 to the ministère du Développement durable, de l'Environnement et des Parcs to fund these investments.

6.9 Tourism in the regions

Tourism is a major avenue of development for the regions. It is therefore important to support regional projects and activities that stimulate the tourism industry.

For this purpose, the spending envelope of the ministère du Tourisme is increased by $5 million in 2005-2006. The Minister of Tourism will specify how these additional appropriations will be allocated. The appropriations required for 2005-2006 will be drawn from the contingency fund.

6.10 Development of a network of protected areas

The Québec government recognizes the importance of preserving our natural heritage for future generations. In this regard, the government has pledged to designate 8% of Québec territory, representing a total surface area of 45 000 km^2, as protected area.

The 2004-2007 Québec action plan on biological diversity underscored the importance of stepping up the private sector's involvement in efforts to protect Québec's natural heritage and achieve the plan's objectives. Protected areas on private land account for an area of 150 km^2.

To respect government commitments in this regard, the new program announced in the 2005-2006 Budget Speech provides for an envelope of $9 million over three years. The purpose of these funds is to develop a network of protected areas on private land and amass financial leverage to help private conservation agencies create a heritage legacy. This program is part of a shift toward public-private partnerships, and investments of $15 million from the private sector are anticipated.

The program will make private landowners accountable for the preservation of our natural heritage and target three objectives:

- encourage private landowners to protect their natural sites;
- allow conservation agencies of protected areas to acquire private lands;
- foster the recognition and preservation of private nature reserves.

The details of this program will be announced at a later date by the Minister of Sustainable Development, Environment and Parks.

Additional appropriations of $650 000 in 2005-2006 and $1.35 million in 2006-2007 will be granted to the ministère du Développement durable, de l'Environnement et des Parcs. The appropriations required for 2005-2006 will be drawn from the contingency fund.

7. SUPPORT FROM THE QUÉBEC GOVERNMENT FOR QUÉBEC CITY'S 400th ANNIVERSARY

The Québec government will make a contribution of $40 million to the organization of the festivities surrounding the 400th anniversary of the founding of Québec City. This contribution will be spread over several years.

Furthermore, the Québec government will invest $70 million in a number of major infrastructure projects. In particular, revitalization work will be carried out on the banks of the St. Lawrence to facilitate access to the river.

To that end, additional appropriations of $2 million in 2005-2006 and $10 million in 2006-2007 will be granted to the ministère des Transports, which is also responsible for the promotion and development of the Capitale-Nationale region. The appropriations required for 2005-2006 will be drawn from the contingency fund.

Section 3

Financial Impact of Fiscal and Budgetary Measures

FINANCIAL IMPACT OF FISCAL AND BUDGETARY MEASURES 2005-2006 BUDGET SPEECH

(millions of dollars)

	Financial impact for the government		
	Full year	**2005-2006**	**2006-2007**
A. REVENUE MEASURES			
RECALL – 2004-2005 BUDGET			
Gain of $1 billion for taxpayers			
Child Support	-547	-975	-547
Work Premium	-243	-115	-243
Single personal income tax system	-219	-40	-219
Total	**-1 009**	**-1 130**	**-1 009**
RECALL – INDEXATION OF THE TAX SYSTEM			
2005	-180	-180	-180
2006	-315	-70	-315
Total	**-495**	**-250**	**-495**
2005-2006 BUDGET			
1. Personal income tax reduction[1]			
New $500 deduction for workers	-300	-70	-300
Increase in the tax assistance for persons with a severe and prolonged mental or physical impairment	-7	-1	-7
Improvement of the tax assistance for caregivers			
– Increase in the supplement for handicapped children	-8	-2	-8
– New refundable tax credit for natural caregivers	-28	—	-5
Higher ceilings on RRSP and RPP contributions	-27	-7	-15
Increase in the refundable tax credit for medical expenses	-2	-1	-2
Subtotal – Personal income tax reduction	**-372**	**-81**	**-337**

[1] These measures are presented in Section 5 of the *2005-2006 Budget Speech*, Budget Plan, entitled *Personal Income Tax Reduction*.

FINANCIAL IMPACT OF FISCAL AND BUDGETARY MEASURES 2005-2006 BUDGET SPEECH (CONT.)

(millions of dollars)

	Financial impact for the government	
	2005-2006	2006-2007
2. Encouraging wealth creation[2]		
2.1 Corporate tax reform to encourage investment		
– Reduction of more than 50% in the tax on capital	-50	-221
– Increase in the tax rate of large companies	43	174
– Reduction in the tax rate of SMEs	-7	-30
– Introduction of a capital tax credit of 5% of the value of new investments in manufacturing and processing equipment	-55	-74
– Increase in capital cost allowance rates	-3	-8
Subtotal	**-72**	**-159**
2.2 Business financing		
– SME Growth Stock Plan	-4	-20
– Assistance for major employment-generating projects in the information technology sector	-5	-10
Subtotal	**-9**	**-30**
2.3 R&D, innovation and exports		
– Increase to 37.5% in the rate of the R&D tax credit for SMEs	-6	-18
– Broadening of the scope of the design tax credit	-2	-6
Subtotal	**-8**	**-24**
2.4 Support for regional development		
– Extension of tax credits for processing activities in the resource regions	-9	-28
Subtotal	**-9**	**-28**
Subtotal – Encouraging wealth creation	**-98**	**-241**
3. Other measures		
Fuel tax refund in respect of biodiesel fuel	-2	-2
Refundable tax credit for the production of ethanol in Québec	—	-12
Removal of expenses paid for cosmetic purposes from the list of eligible medical expenses[1]	2	5
Subtotal – Other measures	**—**	**-9**
TOTAL IMPACT OF REVENUE MEASURES	**-179**	**-587**

[1] These measures are presented in Section 5 of the *2005-2006 Budget Speech*, Budget Plan, entitled *Personal Income Tax Reduction*.

[2] These measures are presented in Section 6 of the *2005-2006 Budget Speech*, Budget Plan, entitled *Encouraging Wealth Creation*.

FINANCIAL IMPACT OF FISCAL AND BUDGETARY MEASURES 2005-2006 BUDGET SPEECH (CONT.)

(millions of dollars)

	Financial impact for the government	
	2005-2006	2006-2007
B. EXPENDITURE MEASURES		
1. Social housing		
Investments of $145 million in the construction of 2 600 social housing units	—	-1
Increase of $15 million in the repair and maintenance budget of low-rental housing units	-5	—
Subtotal	**-5**	**-1**
2. Homework assistance program	**-10**	**-10**
3. Financial support for museums	**-5**	**—**
4. Productivity enhancement and export development[2]	**-5**	**-5**
5. Proof of concept funding for university research findings[2]	**-2**	**-2**
6. Support for regional development[2]		
Improved forest management	-25	-25
$30-million assistance fund for single-industry towns	-10	-10
Support for workers in forest-based communities	-1	-2
Support for social economy business projects in the regions	-1	-2
Tourism in the regions	-5	—
Greenhouse industry – use of alternative energy sources	-3	-2
Local products	-2	-3
Investments in nature park infrastructures	—	-6
Development of a network of protected areas	-1	-1
Subtotal	**-48**	**-51**
7. Québec City's 400th anniversary	**-2**	**-10**
TOTAL IMPACT OF EXPENDITURE MEASURES	**-77**	**-79**
TOTAL IMPACT OF REVENUE MEASURES	**-179**	**-587**
TOTAL IMPACT OF FISCAL AND BUDGETARY MEASURES	**-256**	**-666**

Note: A negative entry indicates a cost for the government.

[2] These measures are presented in Section 6 of the *2005-2006 Budget Speech*, Budget Plan, entitled *Encouraging Wealth Creation*.

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